

1 APPEARANCES

2 STATE OF CALIFORNIA
DEPARTMENT OF ENERGY COMMISSION
3 BY: STANLEY W. VALKOSKY, Chief Hearing Officer
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5 STATE OF CALIFORNIA
DEPARTMENT OF ENERGY COMMISSION
6 BY: ROSELLA SHAPIRO, Special Advisor
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8 STATE OF CALIFORNIA
DEPARTMENT OF ENERGY COMMISSION
9 BY: ROBERTA MENDONCA, Public Advisor
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11 STATE OF CALIFORNIA
DEPARTMENT OF ENERGY COMMISSION
12 BY: JANANNE SHARPLESS, Commissioner
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15 BY: ROBERT A. LAURIE, Commissioner
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18 BY: NEHEMIAH STONE, Advisor
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DEPARTMENT OF ENERGY COMMISSION
21 BY: CARYN HOUGH, Staff
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23 STATE OF CALIFORNIA
DEPARTMENT OF ENERGY COMMISSION
24 BY: RICHARD K. BUELL, Staff
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25 Sacramento, California 95814

1 For the Applicant:

2 RICK WOLFINGER, President
3 HIGH DESERT POWER PROJECT, LLC
4 250 West Pratt Street
Suite No. 2300
Baltimore, Maryland 21201-2423

5 ALLAN J. THOMPSON, ESQ.
6 LAW OFFICES OF ALLAN J. THOMPSON
7 Four Embarcadero Center
Suite No. 1700
San Francisco, California 94111

8 For the Intervenor:

9 MARC JOSEPH
10 California Union for Reliable Energy

11 ALSO PRESENT:

12 AMY CUELLAR
13 Resource Management International, Inc.

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1 BE IT REMEMBERED that on Wednesday,
2 July 1, 1998, commencing at the hour of 10:15 A.M.
3 at the City Council Chambers, City Hall, 14343
4 Civic Drive, Victorville, California, before me,
5 JENNIFER M. RODRIGUES, a Certified Shorthand
6 Reporter in and for the State of California,
7 County of Alameda.

8 COMMISSIONER JANANNE SHARPLESS:
9 Good morning. It's nice to see you all this
10 morning. And it is nice to be back here in
11 Victorville. This is the second informational
12 hearing that we've held. This particular
13 informational hearing is going to focus on a
14 modification to the application, dealing with the
15 national gas pipeline.

16 The second portion will be involved
17 with status on the application. This is the
18 Energy Commission's committee that is presiding
19 over the High Desert Power Project for permits.
20 And we're here today to listen to the public and
21 to listen to the applicant and to listen to the
22 staff regarding both the details of the
23 application and the status of the application.

24 I'd like to begin by having
25 introductions of those sitting in the dais so that

1 you will know who we are and why we're here. I
2 will begin by introducing my colleague
3 Commissioner Robert Laurie, who is to the left of
4 me, and his advisor Nehemiah Stone, who is to the
5 left of him. To my direct left is Stan Valkosky,
6 who is the hearing officer on this project.

7 And to my right is Rosella Shapiro,
8 my advisor. And to her right is Roberta Mendonca
9 or Mendonca.

10 ROBERTA MENDONCA: Mendonca.

11 COMMISSIONER JANANNE SHARPLESS:
12 Mendonca. Thank you for that. Who is our public
13 advisor and will make a few comments about her
14 role in this proceeding. I would like to now turn
15 the introductions over to -- start at the extreme
16 left and then just allow the staff and the parties
17 and the applicants to introduce themselves.

18 MARC JOSEPH: My name is Marc
19 Joseph. I represent the California Unions for
20 Reliable Energy, which is the intervenor in this
21 process.

22 RICHARD BUELL: My name is Rick
23 Buell. I'm the Energy Commission's staff
24 commission manager for the project.

25 CARYN HOUGH: My name is Caryn

1 Hough. I am the attorney assigned to the project
2 for the staff.

3 ALLAN THOMPSON: My name is Allan
4 Thompson. I'm project counsel.

5 RICK WOLFINGER: My name is Rick
6 Wolfinger. I'm the applicant for the High Desert
7 Power Project.

8 COMMISSIONER JANANNE SHARPLESS:
9 Thank you. Are there any other participants that
10 are currently sitting in the audience that are
11 district representatives or others that will
12 introduce themselves at this time? Yes.

13 NORMAN CAOUETTE: Norm Caouette
14 assistant general manager for Mojave Water Agency.

15 COMMISSIONER JANANNE SHARPLESS:
16 Thank you.

17 KEITH GOLDRUN: My name is Keith
18 Goldrun. I am with the C.E.C. air quality staff.
19 And for informtion the district representative is
20 available on call before we get to that subject,
21 and I will contact when we get close to air
22 quality issue.

23 COMMISSIONER JANANNE SHARPLESS:
24 Okay. Fine.

25 MIKE ROTHSCHILD: I'm Mike

1 Rothschild. I'm on the Mojave Desert Air Quality
2 District board of directors City Council.

3 COMMISSIONER JANANNE SHARPLESS:

4 Thank you. Yes.

5 ROGER CANNON: I'm Roger Cannon. I
6 represent Bureau of Land Management with
7 particularly concerned, of course, the
8 environmental aspects of the pipeline extension.

9 COMMISSIONER JANANNE SHARPLESS:

10 Thank you. Any others? Yes.

11 STEVE FRANKOWITZ: I'm Steve
12 Frankowitz. I'm the engineer and project manager
13 for Southwest Gas for the pipeline.

14 COMMISSIONER JANANNE SHARPLESS:

15 Anyone else that needs to identify themselves?

16 BOB COOK: Bob Cook. I'm with Will
17 Banks Engineering. We're under contract with
18 Southwest Gas to manage the project designed in
19 construction and what have you.

20 ANDY WELCH: I'm Andy Welch. I'm
21 the project director for the whole High Desert
22 Power Project.

23 AMY CUELLAR: And I'm Amy Cuellar.
24 I'm a consultant for the project.

25 COMMISSIONER JANANNE SHARPLESS:

1 Thank you. Okay. So we have a number of
2 individuals who are both involved in, interested
3 in this project.

4 I wanted to, before I begin the
5 agenda today, thank the City Council of
6 Victorville for allowing us to use this very fine
7 facility. And it makes it especially easy to come
8 to Victorville when you have a facility like this
9 where you can meet and have public meetings.

10 So thank you for your hospitality.

11 The Energy Commission began its
12 review of the High Desert Power Project in
13 December of 1997. The project applicant recently
14 expanded the proposed power project to include a
15 second natural gas pipeline approximately 32 miles
16 in length. Therefore, the committee scheduled
17 this hearing and in conference and a notice dated
18 June 4, 1998.

19 This notice was sent to all parties,
20 interested governmental agencies, and loan owners
21 within 500 feet of the right of way for the
22 recently proposed second natural gas line -- gas
23 pipeline. Today's session will serve two
24 purposes: First we will provide you information
25 concerning the nature of the committee's licensing

1 process, methods for participating in this
2 process, and a description of the value for the
3 second natural gas pipeline.

4 And second we will discuss the
5 progress the parties have made on certain key
6 events set forth in the committee's June 1 second
7 revised scheduling order. I would propose that in
8 order to achieve these purposes, we will proceed
9 in the following manner:

10 First the commission's staff will
11 provide a brief overview of our licensing process
12 and its role and review in the High Desert Power
13 Project in general and the second gas pipeline in
14 particular. And next Ms. Roberta Mendonca, the
15 commission's public advisor, will explain the
16 methods available to gain information about in
17 participating in the licensing process.

18 And finally the applicant will
19 describe its proposed routing for the second
20 natural gas pipeline. And upon completion of
21 these presentations, we can hear from interested
22 agencies. And members of the public may ask
23 questions. And following this informational
24 portion of today's proceeding, we will then go to
25 the scheduling order in progress at the overall

1 project.

2 So we'll start by asking staff.

3 Staff, will you please give a brief overview.

4 RICHARD BUELL: Hi. Good morning.

5 My name is Richard Buell. And as I indicated
6 earlier, I'm the staff's project manager for the
7 California Energy Commission.

8 And I have a sheet and the
9 presentation that gives my name and address and
10 phone number as you make your daily contact with
11 me and ask questions about schedule or what's
12 happening on the case. Also we have Roberta
13 Mendonca, who is our public advisor, and her
14 address and her phone number.

15 She has an 800 number, and she'll
16 explain a little more about her process in a
17 little bit. And Claudia Chander, who is our media
18 and communications contact, if you're a member of
19 the press and want to find out the latest and
20 greatest on the project, contact Claudia. And
21 she'll give you the latest or refer your questions
22 to me if appropriate.

23 Also I've put on is the applicant's
24 address and contacts should you need to get in
25 contact with the applicant. The Energy

1 Commissioner has siting authority over thermal
2 power plants 50 megawatts and greater and also
3 over related facilities such as the transmission
4 lines, the natural gas pipelines for this project,
5 as well as we're going to be discussing today
6 other things such as water pipelines, water wells,
7 that would be constructed for the project.

8 We've divided the review process
9 into six stages here. Just to try to give an
10 indication of what the steps are, as Commissioner
11 Sharpless has repeated, we've already been through
12 a number of these steps already. We've already
13 gone through prefiling review for the applicant
14 recommendations.

15 And I'm going to achieve a complete
16 application -- we've gone through data accuracy.
17 We've determined the application to be complete.
18 We're still in the review process on the Natural
19 Gas Amendment that was filed earlier this month.
20 And we'll be advising the commissioners on whether
21 that is complete or not shortly.

22 Discovery phase is phase where we're
23 asking applicant daily request to clarify
24 information that may have been provided during
25 the -- in the A.F.C. or simply immediately in more

1 detailed information to understand what the
2 proposal is and what the issues are or how to
3 mitigate the environmental impacts of the project.

4 And we've done a number of rounds of
5 daily request, and it's possible that you may do
6 some more daily request on the second natural gas
7 pipeline in order to gain that additional
8 clarification on the proposal as well as other --
9 on other areas such as air quality may still have
10 outstanding data adequacy.

11 The analysis phase we've already
12 completed what we call a Preliminary Staff
13 Assessment, which was published back in May 15 of
14 this year. And that contains staff's findings on
15 the project in terms of environmental consequences
16 and engineering analysis on the project.

17 And at that point in time, that
18 analysis was not complete. In the staff's
19 opinion, there was a number of areas that we had
20 not received sufficient information to analyze the
21 project on. Some of those areas were water, for
22 example. We don't have a complete understanding
23 of the water project in order to be complete our
24 analysis of that and, likewise, for air quality.

25 As far as analysis goes, staff

1 intends to file a revised Preliminary Staff
2 Assessment later this year and also to file what
3 we call a "Final Staff Assessment" later this
4 year. And based upon that Final Staff Assessment,
5 we, the committee, will conduct hearings and
6 render a decision on the proposed project.

7 The commission process is open to
8 the public. We invite the public to participate
9 in our workshops as well as in our hearings to ask
10 questions, to identify their concerns that they
11 believe the staff should be addressing in their --
12 our analysis. We -- as I indicated, we've
13 published some documents in this case. And you
14 can get on various mailing lists with the
15 Commission.

16 You can be on, as most of you are
17 attending today are probably on the mailing list
18 which includes things like notices for workshops
19 and things and whatnot. You also can be on an
20 agency list such that you would get copies of
21 documents like the P.S.A. and on the Preliminary
22 Staff Assessment and also the Amendment for the
23 Second Natural Gas Pipeline, for example.

24 If you want to be put on one of
25 those lists, please contact me and/or Roberta.

1 And we can make sure that your names are on the
2 appropriate list and you get copies of the
3 appropriate documents. We also send out notices
4 periodically to the mailing list, for example,
5 when we've completed our Preliminary Staff
6 Assessment.

7 So it's another way of finding out
8 what the status of the project is. Roles of
9 parties: There's a number of different parties to
10 the process. The committee, the decision makers
11 in this case, are Jan and Bob Laurie. Our hearing
12 advisor, Mr. Stan Valkosky, generally conducts
13 hearing on the case.

14 Energy Commission staff is an
15 independent party -- the same as the applicant in
16 preparing our analysis or as any other party that
17 might be an intervenor to the process.

18 We develop our own analysis and work
19 with local agencies to try to gain their
20 understanding, their concerns about the project,
21 and what needs to be -- conditions need to be
22 placed on approval of the project, if the
23 commission had not been a licensing authority,
24 what would they require on the project, for
25 example.

1 We would want to try to incorporate
2 that in staff's analysis. The public is also, as
3 I mentioned, an important part of the process.
4 And you have a number of different ways that you
5 can participate in the process, and maybe perhaps
6 I can explain some of those different methods of
7 participation.

8 You can actually become an
9 intervenor such as California Unions for Reliable
10 Energy is an intervenor in the process. And they
11 have the same status as any other parties on the
12 case, likewise, the same responsibilities. And we
13 talked about the public advisors. So I won't
14 continue on that. In our analysis we do analyze
15 clients with local laws, ordinances, and standards
16 as well as state's standards.

17 This may be applicable as well as
18 federal standards that may be applicable to the
19 project and provide our assessment of whether or
20 not the project is likely to comply or does comply
21 with those regularly. Our environmental
22 assessment looks at a number of different areas --
23 generally those areas that you find not only in
24 the California Environmental Quality Act documents
25 or E.I.R.

1 So that would include things like
2 air quality, water quality, land use,
3 socioeconomics, noise, public health, transmission
4 lines, safety nuances. We look at things like
5 electromagnetic force effects. So the number of
6 different areas that we look at in our
7 environmental assessments, and we look at
8 providing an environmental setting.

9 So you describe the environment that
10 currently exists, the consequences of building the
11 project, how the project is going to affect that
12 environment, also identify mitigation measures
13 that are necessary to mitigate the significant
14 adverse effects of the project.

15 We also develop making environments
16 and conditions of certification that actually
17 would enforce those requirements being readily
18 identified, for example, air modifying in the
19 project in conjunction with the work that the
20 local air control district would do to try that
21 ensure that we've -- the project will operate in
22 compliance with regulations that will not cause
23 any adversary effects.

24 We will look at alternative sites.
25 And in our Preliminary Staff Assessment, staff has

1 identified as having three alternative sites that
2 they are examining as possibilities they might
3 lessen or avoid impacts associated with this
4 project. Also look at a smaller size project is a
5 possible alternative to lessen the effect should
6 there be something in effect.

7 We also evaluate the environmental
8 consequences of linear facilities. So it's a
9 fancy word for transmission lines, natural gas
10 pipelines, water pipeline. Lastly, staff is
11 responsible and, at least we believe we are, to
12 facilitate both public and agency participation in
13 the process.

14 Staff, who works with local
15 agencies, try and as well as state and federal
16 agencies to try and ensure that their comments are
17 addressed in our process and that their concern
18 will be met in the final decision. Commissioner
19 Sharpless has given a brief history of where we
20 are in this case. But I'll add a few things.

21 As I indicated earlier, we had
22 deemed application complete on December 3. We've
23 begun our analysis of major issues on the project.
24 Currently we have identified major issues in the
25 areas of air quality, water supplies, and other

1 resources. There may be a few other areas that
2 may still qualify as having significant effects:
3 Second natural gas pipeline, for example.

4 So we're not sure whether or not
5 there may be other significant effects from that
6 proposal. As I mentioned earlier, on May 15 staff
7 filed a Preliminary Staff Assessment that did not
8 address the second natural gas pipeline. So
9 similar to the petitions on June 15, the applicant
10 filed his Amendment for the Second Natural Gas
11 Pipeline.

12 And we're still reviewing that and
13 will advise the commissioners on whether that's
14 complete by, I believe, next Monday, advise them
15 on that submittal and also of submittal the
16 applicant made regarding Letters of Intent to
17 secure commission process for the proposed
18 project.

19 Currently staff, the community, has
20 adopted a schedule that requires staff to issue
21 its revised P.S.A. on July 31 of this month. We
22 will discuss that later this afternoon, and we
23 will discuss schedules that will identify
24 certification on that.

25 Many of the complex and difficult

1 issues regarding this proposal staff has
2 proposed -- This is something that we have in
3 conformance to the applicant, schedule for the
4 applicant, and something in return, a few other
5 cases from the concept that adapt and provides
6 some information by a date that we all agree on.

7 Then we'll proceed with the
8 schedule; and, if not, then perhaps we will have
9 to delay the process in order to allow staff
10 sufficient time to analyze the data once it is
11 received. It is a consequence will not -- can't
12 always guarantee exactly when some future dates
13 will happen. The community has adopted a
14 schedule.

15 As I indicated, it goes through
16 issuing of the -- I think it only goes through the
17 issuing of the revised P.S.A.

18 COMMISSIONER JANANNE SHARPLESS:
19 Right.

20 RICHARD BUELL: Adopt any events
21 beyond that, staff tentatively gives some
22 concepts. We're looking at a possible decision on
23 this project in the February time frame of next
24 year. They would remain on the schedule at staff
25 at the back early in the month of June. That

1 completes my summary of the process and where we
2 are in this case.

3 And I'm available to answer any
4 questions if you have any.

5 COMMISSIONER JANANNE SHARPLESS: Any
6 questions of Mr. Buell at this point? Okay.
7 We'll move to the public advisor, Ms. Mendonca.

8 Would you like to cover your role.

9 ROBERTA MENDONCA: Good morning. It
10 is a pleasure to be here once again in
11 Victorville. And I did speak with several of you
12 this morning and some of you who have also called
13 my office. So some of you have already found out
14 what the public advisor does. Basically let me
15 just say that although I'm here on the dais, I am
16 not a commissioner.

17 I won't be making a decision on this
18 application, and I'm not a part of the staff. I
19 am specifically here to enable public
20 participation in the Energy Commission process.
21 So I'm reachable at an 800 number, and I welcome
22 your calls. You can ask how, when, or what; and I
23 will do my very best to get back to you.

24 I would point out that in addition
25 to the information that Rick has given you, you

1 should know that here, in Victorville at your
2 public library, there is a copy of the completed
3 application. And also information on this
4 particular project is available at the Energy
5 Commission's web site.

6 And you go to our web page and then
7 access the High Desert Power Project. And working
8 cooperatively with the applicant, we have some
9 links between information that they have on their
10 information on their web page on this particular
11 project.

12 So some of you have already figured
13 out how to participate. And that was you got a
14 letter in the mail. For those of you who might
15 have heard about the hearing by other means or
16 seen it in the newspaper, if you would please sign
17 in on our sign-in sheet and check the box, you
18 would then get future notice of hearings and
19 workshops on this project.

20 You can show up at a hearing, and we
21 have a process usually called the blue card. And
22 we ask that you fill out your name and address and
23 tell me what area of the agenda you would like to
24 speak. Then I gather those, and we can order our
25 hearings a little more efficiently by use of the

1 blue cards. Again showing up is a fine way to
2 participate, and you might call yourself a
3 participant or an interested member of the public.

4 But should you desire more
5 participation than that and really what can happen
6 is you can become a formal party, as CURE has
7 done, by intervening. The process of intervention
8 allows you to testify and to cross-examine and
9 participate really at a higher level than public
10 comment.

11 So if you're interested in
12 intervening, the public advisor has some
13 information and sample petition that can be made
14 available should that be a direction that you want
15 to go in. And yes. My name is a difficult name
16 to pronounce. I think I learned this most
17 emphatically when I was a schoolteacher.

18 I was Miss Mendonca. And during the
19 time that I was teaching, I got married. I became
20 Mrs. Cook, and my class never asked me any
21 questions because they couldn't say Mendonca. But
22 once it was Mrs. Cook, they said, "Mrs. Cook,
23 Mrs. Cook." Here's the clue: so it's Men, M-e-n,
24 don, d-o-n; and the C is the tricker. The C is
25 actually pronounced like an S. So it doesn't

1 matter what you call me. Just call. And I'm
2 there to help. Thank you.

3 COMMISSIONER JANANNE SHARPLESS:
4 That's good advice for the rest of us as well.
5 Don't seem to advocate quite right. Thank you
6 very much. I would like to move on to the
7 applicant, who now will describe the routing for
8 the second natural gas pipeline.

9 RICK WOLFINGER: I just have one
10 question. Do you know if the application that we
11 made on the 15th that the 120 copies were put in?
12 Did you also send that down to the library so that
13 these people can see that?

14 RICHARD BUELL: The answer to that
15 question is yes.

16 RICK WOLFINGER: Oh, good. It's
17 important on the pipeline besides a big set of two
18 volumes of applications that we put in on this is
19 that you do have another section that does talk
20 dramatically about the pipeline in quite a bit of
21 detail, far more detail than we will have in this
22 public hearing. So that is available down here
23 and certainly access to read that.

24 My name is Rick Wolfinger. I'm the
25 project manager for the High Desert Power Project.

1 We have a display in the outside here that shows a
2 lot about the project. We're only here today to
3 talk about the pipeline, but there are a lot of
4 issues to talk about. And we do hope you avail
5 yourself at your leisure to look at the display.

6 In the handout that was given
7 earlier by Rick Buell, my name, and Andy Welch, my
8 project director's names, addresses are there and
9 our telephone numbers. And please feel free to
10 contact us with any types of questions. In
11 addition, it was mentioned that we do have a web
12 site for the public to understand.

13 And so please avail yourselves of
14 all those areas to understand more about the
15 project itself. This morning we would like to
16 talk about the natural gas pipeline. We're going
17 to break this into two areas, and we'll have two
18 speakers representing our project on that.

19 The first is the physical route
20 itself, and we'll be talking about that. And
21 that's a fellow by the name of Bob Cook from Will
22 Banks Engineer, who is located here in
23 Victorville. And he will discuss the route
24 itself.

25 If the public has not gotten maps,

1 you won't -- maybe when Bob comes up, you may want
2 to come down here. We have a full set of maps of
3 the entire route, which you can follow. I would
4 suggest that you pick up those when Bob is coming
5 down, and then you can follow his physical
6 description of where that pipe goes. And you can
7 get a good visual understanding.

8 And at least right here, they're in
9 this set. The second person who will talk will be
10 Amy Cuellar from R.M.I. She's with our
11 environmental consulting firm. She's the one that
12 put together the document. As a matter of fact,
13 that's in your library that we'll talk about a
14 number of the environmental aspects and biological
15 assessments and those things.

16 So with that I would ask Bob Cook to
17 come up and discuss it, and members of the public
18 are more than happy to come up and get some maps
19 to follow if you would like, Bob.

20 Anybody else need another map out
21 here? You have one. Thanks. Okay.

22 BOB COOK: Good morning, everyone.
23 I might just, in addition to myself, ask Steve
24 Frankowitz to come up if he would. Maybe what I
25 can do is describe what Will Banks's role will be

1 in the project as far as the design and
2 construction is concerned.

3 And then, of course, Steve, being
4 with Southwest Gas, once the project is complete,
5 why, then they're going to be involved with the
6 maintenance operation and inspection and what have
7 you once the pipeline is completed.

8 So I might just start out, and we've
9 got this map. I don't know how well you can see
10 it from the audience, but I might just lay out a
11 little bit of the geography. Basically this
12 lavender area is the area encompassing the
13 Southern California International Airport.

14 I don't know if you can see these
15 lines or not, but these represent the utility
16 corridors that the V.O.M. was designated for
17 utilities both electric and gas. So we have this
18 route here following along the Mojave River. And
19 there's another utility corridor following along
20 Highway 58 to the north and then another utility
21 corridor following along Highway 395.

22 The widths of these corridors vary
23 between two and five miles. Originally when the
24 secondary pipeline project was being considered,
25 we were looking at a route along Helendale Road.

1 But after discussions with the V.O.M., it was
2 learned that that wasn't the utility corridor.
3 And as a consequence, we relocated positioning the
4 line along 395, which would be on the west side of
5 395.

6 And currently there's five other
7 utilities in that corridor. There's a PG&E
8 communication line. Immediately adjacent to the
9 highway, there's 110 volt or 110 K.V. California
10 power transmission line, electric transmission
11 line, Edison 230 K.V. transmission line. And then
12 further to the west, there's a 500 K.V. Department
13 of Water and Power pipeline or a transmission
14 line.

15 And then to the furthest to the
16 west, there's an AT&T underground fiber optics
17 line. So our proposal is to situate ourselves
18 somewhere in between that fiber optics line and
19 the D.W.P. 500 K.V. transmission line. So
20 basically we would start at the northern part of
21 the route.

22 RICK WOLFINGER: Bob, people have
23 their maps. Kind of start down at the plant and
24 work backwards and following the map.

25 BOB COOK: We can do it either way.

1 Okay. Starting down here at the plant, the
2 airport area, and, of course, the southern
3 pipeline is already been described in prior
4 meetings. But the project that we're talking
5 about today would be the secondary pipeline.

6 And it would start there at the
7 power plant site, the 25-acre site on the
8 northeast portion of the airport. It would go
9 northerly along Perimeter Road, wander out through
10 the northern part of the airport, follow up
11 Helendale Road, follow across Colusa Road, and
12 then occupy position in that utility corridor like
13 I mentioned earlier between the 500 K.V.
14 Department of Water and Power transmission line
15 and the AT&T fiber optics line and go on up the
16 route pretty much parallel to Highway 395 all the
17 way to Highway 58, where we would propose to make
18 connections to two lines. One being a 34-inch
19 PG&E line.

20 The other connection would be to
21 42-inch Kern River gas transmission line. And
22 along with those tabs, there would be custody
23 transfer stations there above ground stations.
24 And I think those photographs are depicted in the
25 submittal that we made on June the 15th, typical

1 construction of what it might look like.

2 This northern part of the route this
3 area here is U.S. Air Force property, Edwards Air
4 Force Base. So in our configuration, we did
5 design the things so that we would stay off of
6 that property and stay in this area here, going
7 northerly along the section line but staying still
8 within the utility corridor.

9 The pipeline is proposed to be a 30
10 inch. I think originally we were talking about a
11 24-inch route along Helendale. But now that the
12 route is somewhat longer, we're going from 25
13 miles to 32 miles, where the size was increased.

14 Steve, anything that you can offer
15 at this point? Construction would be by typical
16 construction methods, proposing to start the
17 construction in July of 2000, about a four-month
18 construction period. So we would be completing
19 around November 1 of 2000.

20 COMMISSIONER JANANNE SHARPLESS: Can
21 I ask a question: How close is the natural gas
22 pipeline to the proposed water pipeline route on
23 Helendale Road?

24 BOB COOK: I don't have the specific
25 distance, but we would be occupying the position

1 on the west side of the road. And the water line
2 would be on the east side. So --

3 COMMISSIONER JANANNE SHARPLESS: So
4 it's divided?

5 BOB COOK: I would guess 30 or 40
6 feet separation.

7 COMMISSIONER JANANNE SHARPLESS: Is
8 the construction going to occur at the same time
9 the water and the S --

10 BOB COOK: I'm not sure what the
11 timing is on the water line there.

12 STEVE FRANKOWITZ: We would schedule
13 it at the same time.

14 COMMISSIONER JANANNE SHARPLESS: You
15 wouldn't schedule it at the same time? Which one
16 should go in first?

17 STEVE FRANKOWITZ: It would be
18 easier for the water line to go in first.

19 COMMISSIONER JANANNE SHARPLESS: But
20 what --

21 STEVE FRANKOWITZ: Our construction
22 will be a lot more extensive. And we would
23 probably start at the north and work down. And we
24 would only be occupying constructionwide that same
25 zone that their line would be for two weeks.

1 COMMISSIONER JANANNE SHARPLESS: Is
2 this natural gas pipeline going to be dedicated
3 just to the High Desert Power Project?

4 STEVE FRANKOWITZ: That's the way
5 it's set up.

6 COMMISSIONER JANANNE SHARPLESS: So
7 the volume you're talking about a 30-inch
8 pipeline?

9 BOB COOK: Yes.

10 COMMISSIONER JANANNE SHARPLESS: The
11 volumes for the pipeline would be what?

12 BOB COOK: I think it's 10,000
13 M.C.F. per hour.

14 STEVE FRANKOWITZ: Uh-huh. We sized
15 it. As you know, there are several different
16 configurations for the power plant. And we had to
17 use the worst case scenario from our perspective
18 which is the highest gas load for them. And the
19 lowest possible in that pressures from PG&E and
20 Mojave pipeline and, in doing so, still be able to
21 provide a pressure that, at least under the worst
22 case, would not require compression.

23 And 30 inches the diameter that
24 allows that. And, of course, the gas dynamics
25 being what they are if PG&E has a higher pressure

1 and they had less than a load, they would have
2 excess capacity. But worst case scenario, that's
3 what it needs to be.

4 COMMISSIONER JANANNE SHARPLESS:
5 Uh-huh. Anything else? Proceed. Thank you.

6 BOB COOK: Thank you.

7 AMY CUELLAR: And my name is Amy
8 Cuellar. I'm a consultant for the project, and I
9 don't have have too much to add since most of my
10 areas were already covered. But on June 15, we
11 did submit 125 copies of a full environmental and
12 engineering analysis of the pipeline. As Rick
13 Buell said, the environmental area covered
14 basically 12 resource areas anywhere from air
15 quality, biological resources, traffic, and
16 transportation.

17 We had some field survey crews out
18 there from cultural and paleontological resources,
19 put some sections together on that. The
20 environmental analysis for the gas pipeline
21 basically covered three main areas.

22 There's a discussion of effected
23 environment for each of these resource areas.
24 There are a discussion of environmental
25 consequences both from a construction standpoint,

1 operations standpoint, and any potential
2 cumulative impacts that you might have. And then
3 there's a discussion on mitigation. The
4 mitigation would be implemented to reduce any
5 impacts to less than significant.

6 What else can I add? Like Bob Cook
7 and Steve Frankowitz said, we're completely within
8 existing utility corridor. The project has been
9 working with various local and federal agencies
10 throughout this process including fish --
11 Department of Fish and Game, Fish and Wildlife
12 Service.

13 This new pipeline is the first
14 component of the project that actually causes
15 federal lands. So we will be coordinating with
16 the Bureau of Land Management on that. Actually
17 we're going to meet with Roger Cannon tomorrow to
18 discuss their informational requirements on the
19 project. Don't really have a lot else to add.

20 There's an, like everyone -- or like
21 Rick Buell has said, there's a copy of the gas
22 pipeline analysis and the whole application for
23 certification in the local libraries. And they
24 have, like, cross referenced each other. So if
25 you can sit down with both, you can follow the

1 project very fairly well.

2 STANLEY VALKOSKY: Is the existing
3 corridor of -- does it traverse exclusively
4 government land, or does it also traverse
5 privately owned land?

6 AMY CUELLAR: It's a combination of
7 private and federal land. Actually the
8 percentages are in the gas pipeline analysis. But
9 I believe there's a 30 percent federal land, and
10 the rest is private land.

11 STANLEY VALKOSKY: And when you say
12 exist in the utility corridor, does that mean that
13 you will have no difficulty pertaining the right
14 of way?

15 AMY CUELLAR: Right of way
16 application has been submitted on behalf of
17 Southwest Gas to the Bureau of Land Management.
18 That was filed on June 3.

19 STANLEY VALKOSKY: Okay.

20 AMY CUELLAR: That's in process
21 right now.

22 STANLEY VALKOSKY: How about insofar
23 as the private land is concerned?

24 AMY CUELLAR: It's a lot easier to
25 get the right of way permit in a existing utility

1 corridor than it would have been, if you had
2 looked at the other alternative, the road at
3 Helendale Road, where you were not at a large
4 utility corridor. So we're not anticipating to
5 have a problem with that.

6 COMMISSIONER JANANNE SHARPLESS: But
7 I -- to follow up on Mr. Valkosky's question, you
8 will deal with the land owners individually, or
9 what's the process?

10 BOB COOK: Yes. We deal with them
11 individually. That's part of the scope of --

12 STEVE FRANKOWITZ: That will be part
13 of our job as opposed to environmental. We're
14 treating the two right of way with private land
15 owners and the environmental part separately. So
16 we have separate people doing the right of way
17 work.

18 COMMISSIONER JANANNE SHARPLESS:
19 Would you like to come up to the mike so we can
20 hear you a little bit better. When is the process
21 and when do you start it? We have a court
22 reporter that's taking your transcript.

23 PETE FUENTES: My name is Pete
24 Fuentes, spelled F-u-e-n-t-e-s. I'm the senior
25 land agent for Will Banks Corporation. We're in

1 the process of speaking with all the private land
2 owners presently. They have all been sent a
3 letter from Will Banks on behalf of Southwest,
4 stating what the project is, what the proposed
5 pipeline route, and permission to survey their
6 property.

7 Once we survey the property and it's
8 decided that's where we're going to put the
9 pipeline, then we will go into negotiations with
10 them to obtain an easement from these property
11 owners. Most of them already have received their
12 letters. Any additional ones that have not will
13 be received at one probably within the next two
14 weeks or so.

15 COMMISSIONER JANANNE SHARPLESS: And
16 can you give us a number of how many land owners
17 are impacted.

18 PETE FUENTES: There are
19 approximately 219 parcels of that private land
20 owners and probably in the range of 110 private
21 land owners.

22 COMMISSIONER JANANNE SHARPLESS: So
23 most of the 120 have received notices but not all.
24 But within two weeks, all will?

25 PETE FUENTES: Well, all of them

1 that we think are going to be on the pipeline
2 route have until the actual survey is done. It
3 might move over the line over a little bit, and
4 they will find out for sure if they have received
5 it or not.

6 COMMISSIONER JANANNE SHARPLESS:

7 Okay. Because we've received a number of
8 questions when we send out the notice to the land
9 owners, it was within 500 feet of the proposed
10 pipeline. So there's been a lot of interest by
11 people who have received our notices as to whether
12 or not it will cross their property or not.

13 So for those who have questions,
14 still have questions about whether it will cross
15 their property, those people probably by now know.

16 PETE FUENTES: That's correct.
17 That's correct.

18 COMMISSIONER JANANNE SHARPLESS:

19 With the exception that you stated after the
20 survey.

21 PETE FUENTES: We will be asking for
22 a 50-foot easement. So consequently there's going
23 to be quite a few land owners who are sent letters
24 that are not going to be on the pipeline route.

25 COMMISSIONER JANANNE SHARPLESS:

1 Okay. And they'll know that by when?

2 PETE FUENTES: Most of them should
3 have already received their letters. In fact, all
4 of them should have received their letters. Any
5 changes and, of course, we'll send additional
6 letters out.

7 COMMISSIONER ROBERT LAURIE: The
8 question, Commissioner Sharpless.

9 COMMISSIONER JANANNE SHARPLESS:
10 Yes?

11 COMMISSIONER ROBERT LAURIE: What is
12 the understanding of the process if you do not get
13 indemnity fee for voluntary grant?

14 PETE FUENTES: I have probably
15 spoken to about 60 to 70 people already on the
16 proposed route in addition to sending them a
17 letter. Personally they've contacted me because
18 I've asked them to. And all of them have seemed
19 to have no problems with us obtaining an easement.

20 Some of whom would prefer that we
21 purchase the property outright. Some say no
22 problem. The ones that have not returned -- some
23 of them we can't locate. They've moved out of the
24 country, and we don't know where they're at at
25 this point in time. The process, basically if we

1 can't negotiate anything, a fair market value is
2 we do have the right of eminent domain.

3 We don't like to use it, and it's
4 only as a last resort. But it goes to the process
5 of through the court proceedings. We do an
6 appraisal of the property and try to negotiate
7 something before it actually goes to any court
8 hearings.

9 COMMISSIONER ROBERT LAURIE: When
10 you say you have the right, what entity are you
11 saying specifically?

12 PETE FUENTES: Southwest Gas.

13 COMMISSIONER JANANNE SHARPLESS:
14 Okay. Any other questions regarding the
15 description and the routing process? Thank you
16 very much, sir.

17 AMY CUELLAR: In addition to the
18 surveys for the actual ratification that Pete
19 Fuentes was just referring to, we also did full
20 scale biological, cultural, and paleontological
21 area surveys of the area that we did actually a
22 much larger corridor than the 110-foot gas project
23 that Southwest Gas is looking at. Full
24 descriptions of the protocols and methodology that
25 we used as well as the results are included in the

1 gas pipeline analysis.

2 COMMISSIONER JANANNE SHARPLESS:

3 Okay, Mr. Stone?

4 NEHEMIAH STONE: You survey the full
5 length of the right of way. As I understood your
6 report, you surveyed portions of it. Am I
7 mistaken?

8 AMY CUELLAR: We surveyed the whole
9 32-mile route from the project site up to the
10 Kramer Junction area. For cultural,
11 paleontological surveys, we surveyed a 500-foot
12 corridor 250 feet on either side of the center
13 line and also for botanical surveys.

14 For wildlife biological surveys, we
15 actually surveyed out to a 4,900-foot corridor to
16 meet the requirements as well as the Energy
17 Commissions. We did survey the entire route.
18 Where the confusion might lie is the southern
19 portion of this route actually parallels our water
20 pipeline which, Commissioner, I believe you asked
21 a question about earlier. We did not resurvey
22 that portion of the route as it is already covered
23 in the application for certification for the
24 project.

25 COMMISSIONER JANANNE SHARPLESS: Any

1 questions? Okay. Thank you very much. Does the
2 applicant have anything more --

3 RICK WOLFINGER: No, we don't.

4 COMMISSIONER JANANNE SHARPLESS: --
5 on the description? Okay. Then I will turn to
6 other interested agencies or the public who might
7 have either a comment or questions that they would
8 like to make at this time, this part of the
9 proceeding. Yes, sir. Come on up. As we are
10 making a record, please identify yourself.

11 NORMAN CAOUETTE: Thank you. My
12 name is Norman Couette also a Novel last name,
13 C-a-o-u-e-t-t-e, assistant general manager with
14 Mojave Water Agency. I wanted to address part of
15 the gas line alignment this morning.

16 Mojave Water Agency has recently
17 constructed the first reach of our Mojave River
18 Pipeline Project, which begins at the California
19 Aqueduct to the south of the City of Adelanto and
20 proceeds in a northerly direction to the alignment
21 of Colusa Road.

22 It's a 48-inch line essentially
23 within a 50-foot right of way most of its
24 distance. And we have constructed this pipeline
25 to an area north of the Southern California

1 International Airport.

2 I'm concerned about a section of our
3 pipeline and right of way which goes from the
4 intersection of the Colusa Road alignment at
5 Highway 395 to the point on Colusa Road, where it
6 intersects with Helendale Road, which is
7 coincident with the proposed second gas line.

8 COMMISSIONER ROBERT LAURIE: Would
9 you concern that on the map, please, sir.

10 NORMAN CAOQUETTE: Sure. Essentially
11 our pipeline proceeds in an easterly manner to
12 this point where the proposed pipeline intersects
13 with Colusa Road at Highway 395. At that point
14 our pipeline passes under 395 and then
15 subsequently intersects with Helendale Road.

16 This stretch of about three and a
17 half miles or so is the same area that the second
18 pipeline, the gas pipeline, is proposed in the
19 area where they would go to the south and proceed
20 to the project.

21 That is the easterly terminus of our
22 pipeline. The water line now is planned to go
23 north along Helendale Road from that point. And
24 there's also a proposal by High Desert Power to
25 install a turnout so that water can also be

1 delivered in a southerly direction along the same
2 line that would feed into the plant.

3 COMMISSIONER JANANNE SHARPLESS: So
4 could you specifically state what your concern is.

5 NORMAN CAOUETTE: The concern is
6 over potential for conflict. We have already
7 installed that line. And in discussion with some
8 of our design engineers, that was a rather
9 challenging area because there are other easements
10 and utilities in Colusa Road. Apparently there is
11 an eight-inch and a fifteen-inch high pressure jet
12 fuel line that had been feeding the former George
13 Air Force Base.

14 And there are also fiber optic cable
15 in place from Sprint, G.T.E., and M.C.I. So
16 essentially they did face some issues in locating
17 our pipeline so that it did not conflict with
18 existing utilities. And the concern is that if
19 there is yet another utility, that it not crowd
20 into the right of way, which was necessary to
21 acquire for our water line.

22 COMMISSIONER JANANNE SHARPLESS: Can
23 you define crowding. What are you talking about
24 in terms of distances?

25 NORMAN CAOUETTE: Well, we were

1 required to do our own biological work, and we
2 also received a biological opinion from the U.S.
3 Fish and Wildlife Service. The issues were
4 specifically desert tortuious. And as part of that
5 and other mitigation, we were required to do a
6 revegetation plan.

7 So in the fall, we will be
8 proceeding with revegetation of disturbed area
9 that's obviously not within the roadway itself.
10 And we'll be required to monitor that for several
11 years to assure that the revegetation was
12 successful. So I think that we can certainly work
13 with the project proponents in placing the line so
14 that we don't have the kind of conflicts that I've
15 described.

16 And again our concern would be
17 future access to the line if we did have to have a
18 repair line or any damage that may occur to the
19 revegetation that we've been required to do and
20 we'll be held responsible for in the future.

21 COMMISSIONER JANANNE SHARPLESS: So
22 it's two -- two concerns: One is the crowding
23 issue of existing lines with new lines and your
24 ability to get in and monitor and repair. And the
25 second one is your revegetation mitigation

1 requirement?

2 NORMAN CAOUETTE: That's correct.

3 COMMISSIONER JANANNE SHARPLESS:

4 Okay.

5 NORMAN CAOUETTE: In some instances
6 we had to take the pipeline to greater depth than
7 we had originally planned as a result of trying to
8 work around some of the other existing utilities.

9 And I just wanted to point out that
10 that situation exists. There's likely good that
11 this proposed pipeline would have similar issues,
12 and we just want to be sure we had an opportunity
13 to coordinate with the project proponents.

14 Along those lines I have three sets
15 of the blue lines plan of profile for the pipeline
16 along that stretch of Colusa and a copy of the
17 biological opinion revegetation plan and also
18 mitigation monitoring program.

19 COMMISSIONER JANANNE SHARPLESS:

20 Now, who is your mitigation condition with? Under
21 what agency?

22 NORMAN CAOUETTE: Fish and Wildlife
23 Service.

24 COMMISSIONER JANANNE SHARPLESS:

25 Fish and wildlife. U.S. Fish and Wildlife? Okay.

1 And you have a copy of the applicant's application
2 on this pipeline, and I take it that you have a
3 copy of it?

4 NORMAN CAOUETTE: Correct.

5 COMMISSIONER JANANNE SHARPLESS:
6 Okay. All right. Mr. Wolfinger, did you have
7 something you wanted to say?

8 RICK WOLFINGER: I'm sure that
9 there's a way to work it out. We're looking
10 forward to this, and that I leave it up to the
11 Will Banks of the world to do that.

12 BOB COOK: If I could offer a
13 response.

14 COMMISSIONER JANANNE SHARPLESS:
15 Sure. Why don't you come up. We're not looking
16 really for a response today. We're getting more a
17 sense of the project that we're in this process
18 and get a sense of where people are.

19 BOB COOK: Right. Absolutely. I
20 would just like to offer that we took into a great
21 deal concern into the 42-inch line that they do
22 have installed in Colusa there. They're on the
23 north side, I believe, approximately 30 feet north
24 of the center line. And our design we felt that
25 we wanted to be on the other side of the street to

1 place a major distance between the two facilities.

2 So basically Colusa is a 80-foot
3 road. We're planning to get a 50-foot additional
4 right of way to the south of that 40-foot section
5 south of the center line. We would be roughly 70
6 feet south of the center line. So I think we're
7 looking at a good hundred feet of separation
8 between the two lines.

9 So the only place where we would be
10 crossing is where we would be coming down 395 and
11 crossing Colusa. There would be one crossing
12 there, but I'm sure that can be worked out.

13 And then on the easterly end where
14 their pipeline turns and goes north and then
15 there's also the water line that comes off their
16 lines and goes to the power plant -- they'll be on
17 the east side of the street. We'll be on the
18 west. So there won't be any crossing in that area
19 as well. So I think to a large extent we avoided
20 any conflict that might occur.

21 COMMISSIONER JANANNE SHARPLESS:

22 Okay. Any questions?

23 COMMISSIONER ROBERT LAURIE:

24 Commissioner Sharpless, I would simply ask that
25 our staff be kept informed as we deem necessary --

1 conditions can be imposed on the project at an
2 outside agreement between the parties.

3 COMMISSIONER JANANNE SHARPLESS: Can
4 I just ask a question on the jet fuel line that as
5 underground as well. Since that's going to be an
6 international airport, is that going to be an
7 active line? Do you know, Bob?

8 NORMAN CAOUETTE: I don't know the
9 answer to that.

10 COMMISSIONER JANANNE SHARPLESS:
11 Okay. Any other questions? No? Thank you very
12 much.

13 NORMAN CAOUETTE: Thank you. Maps,
14 yes. Mr. Buell.

15 COMMISSIONER JANANNE SHARPLESS: Any
16 other interested party or public? Yes. Please
17 come forward.

18 RICHARD TROWER: My name is Richard
19 Trower, T-r-o-w-e-r. I live at 12626 Colusa Road
20 on the north side Colusa Road. Actually to make
21 things straight, the water pipeline runs down the
22 middle of Colusa Road, not the north side. We're
23 rather concerned out there because of the Calna
24 pipeline. That's going to put two high pressure
25 pipelines in the same area as people in Musclear

1 what happened when they went up.

2 We're just worried that if one goes,
3 it's going to take the other one. Second concern
4 is again they're going to cut our road up. They
5 tore it up for the water pipeline, and it's not
6 really been repaired to its prior condition. And
7 then they came and they tore it up to a fiber
8 optics line. And then they're going to come in
9 and tear it up for another pipeline.

10 Helendale Road to Colusa Road to
11 Adelanto Road is the main thoroughfare through the
12 area from Adelanto overlooks. And it's also the
13 only way I can get home. Own a horse ranch there.

14 COMMISSIONER JANANNE SHARPLESS:

15 What did you do to get through the --

16 RICHARD TROWER: Fortunately I own a
17 four-wheel drive, and I found there was one
18 evening I couldn't even get into the house for
19 three hours. They were taking the line right in
20 front of my driveway. I had to park and walk
21 through the ditch to get in the house. I know
22 it's not your fault. We're tired of it. You
23 know, we just have to fight and hide another
24 airport. They wanted to throw eminent domain on
25 the area.

1 And because of it, we are now annex
2 to the City of Victorville. It's a never-ending
3 fight. Now this comes along. We just like to be
4 left alone. Take the pipeline. There's a hundred
5 thousand acres to the north and goes across the
6 desert. Why do you have to come down Colusa? We
7 would like to be left alone for at least a couple
8 of months.

9 COMMISSIONER JANANNE SHARPLESS: For
10 a couple of months. You heard the description of
11 the applicant about the fact that they had
12 considered another group that the reason why they
13 went this way was because of the existing right of
14 ways. And --

15 RICHARD TROWER: If looked at that
16 map and these gray lines are their utility
17 corridors, the gray lines don't run down Colusa.
18 Colusa is the part that goes right to left between
19 the two corridors.

20 COMMISSIONER JANANNE SHARPLESS:
21 Right.

22 RICHARD TROWER: We're really not in
23 that corridor. Really I don't see why they
24 couldn't take it through the airport. You're not
25 going to impact anyone. There are people who live

1 out there, and we really don't want this in our
2 area.

3 COMMISSIONER JANANNE SHARPLESS:

4 Well, I'm sure that when the environmental
5 analysis is done on this, there will be
6 alternatives looked at. And we've got a number of
7 parties involved. And I would just invite you. I
8 know that you've got a lot of other things going
9 on, I'm sure. But we do appreciate your
10 involvement in the process.

11 And we will look at every
12 possibility and try to do the best we can. Thank
13 you.

14 RICHARD TROWER: Thank you.

15 COMMISSIONER JANANNE SHARPLESS:

16 Thank you very much. Anybody else? Yes.

17 ROY HANSON: My name is Roy C.
18 Hanson. I'm a professional civil engineer in the
19 State of California. Along the way in my
20 professional career, I was the chief engineer in
21 the Mojave Water Agency when they were trying to
22 locate power plant in Johnson Valley was back 25
23 years ago.

24 If anything to be underscored today
25 is the need for this agency and the excellent job

1 you were doing in the public hearing process. In
2 those days things got out of hand very quickly and
3 even very violently. Scars were created, which
4 have never healed. It didn't exist at that time.

5 Further along the way, I was the
6 executive officer of the California Regional Water
7 Quality Control Board for 13 years. So I do
8 understand the process that you people go through
9 and approve the projects. The latest involvement
10 I've had has been as water engineer in these water
11 rights adjudication and particularly as it
12 pertained to George Air Force Base in the City of
13 Adelanto.

14 I'm a consultant engineer at the
15 present time. Water is a substantive issue and
16 has been identified by this commission and its
17 staff. And you are to be commended on that. It's
18 something that works very closely even though it's
19 not the topic of today.

20 But because I was at the meeting
21 that you had in January, in which you were going
22 through step by step systematically, orderly
23 process to insure that everything was done
24 properly, I appreciate that again. What I see
25 right now is you're doing an excellent job. What

1 I see now is your staff is doing an excellent job.
2 They do not talk a good game; they play a good
3 game.

4 You can call the people in
5 Sacramento; you get immediate response. That's
6 what's really happening. And I want you to know
7 that. I offered to you any assistance that you
8 might need of me in terms of water issues, not as
9 a consultant but as a concerned citizen. Again in
10 summation keep up the good work, and I appreciate
11 it. Thank you.

12 COMMISSIONER JANANNE SHARPLESS:
13 Thank you. Thank you very much. Any other
14 private citizens? Yes. We know you're not a
15 private citizen.

16 KEITH GOLDRUN: My name is Keith
17 Goldrun with the C.E.C. staff, and I had a
18 question quick for Mr. Cook: Did you state
19 earlier that the transmission line would not
20 require any augment, or any increase, in the I.C.
21 engines on the existing pressure station that you
22 would be tapping into? In other words, you tap
23 into the existing supply line.

24 Would you have to upgrade the
25 pressure stations at all to these larger stations?

1 BOB COOK: Are you talking about the
2 pressure station along the existing line and
3 river --

4 KEITH GOLDRUN: Yes.

5 BOB COOK: No. I don't believe
6 there's any upgrade required there, not to my
7 knowledge.

8 KEITH GOLDRUN: And have you had any
9 discussions with those owners of PG&E?

10 BOB COOK: We're doing that right
11 now. And we plan to be with them and discuss the
12 cap detail information and the custody transfer
13 station information. It would be installing those
14 facilities. They would own them and so forth.

15 KEITH GOLDRUN: Okay. So right now
16 it's not absolutely resolved whether any upgrades
17 on the I.C. engines on those stations will be
18 necessary at this point. They're still in
19 discussion?

20 BOB COOK: No. No. We don't have
21 any of that information at this point.

22 KEITH GOLDRUN: Okay. All right.
23 Thank you.

24 COMMISSIONER JANANNE SHARPLESS:
25 Okay. Well, I want to thank you.

1 RICK WOLFINGER: Can I ask a
2 question? Steve, do we have any feeling that
3 there would be any need for that, though? I mean,
4 we haven't made -- done it up. Is there any
5 knowing those lines?

6 STEVE FRANKOWITZ: I don't want to
7 speak for PG&E, but I know that in their history
8 they use those engines. And I think in recent
9 years, they have not used those compressors to
10 near the capacity that they once did when that
11 pipeline was a solid supply to California. Now,
12 there's other pipes that are bringing gas to PG&E.

13 And I'm relatively confident that
14 those compressors are well underutilized at this
15 point, and anything we might have to pull off is
16 easily within the capability that they currently
17 have that.

18 RICK WOLFINGER: May I ask a
19 follow-up question: Will the existing compressor
20 stations have to be operated more to provide
21 additional pressure?

22 STEVE FRANKOWITZ: I used to work
23 for PG&E; Bob Cook used to work for PG&E. I think
24 it's an intelligent opinion, but I think -- but
25 this is my opinion: PG&E has actually two ways to

1 get gas here -- this pipeline. One is through
2 those compressors.

3 The way they're operating now in the
4 gas flows that they have -- I don't even know
5 this -- they'll have to use the compressors to
6 supply this, assuming -- and this is High Desert's
7 Power Project's job to find out who they're buying
8 gas from. And it may then be transported by PG&E.
9 It might be transported by So. Cal. Gas or Mojave.

10 If it's PG&E, I think there is
11 capacity in light that they wouldn't have to use
12 compressors anymore than they're using them. If
13 they did, it's -- it could be a small amount.
14 They could bring gas the other way and not even go
15 through the compressor plan. But like Bob
16 indicated, we will be having discussions with PG&E
17 and the other gas suppliers within the next
18 several weeks.

19 And that's the subject that we'll
20 talk about. It's independent of what we're
21 looking at as far as designing the pipeline and
22 simply asking what kind of pressure can you
23 guarantee at this point in these flow rates. And
24 then that's how we base our design based on what
25 they're guaranteeing us.

1 If their guarantee takes into
2 consideration to have to operate those
3 compressors, I don't know. But I don't think it
4 does.

5 COMMISSIONER JANANNE SHARPLESS:
6 Okay. Thank you. These are questions that need
7 to be answered. Oh, we have another person.
8 Please come on forward. Again state your name and
9 spell it for the record.

10 TIMOTHY THOMAS: My name is Timothy
11 Thomas. And I also live along Colusa Road.

12 COMMISSIONER JANANNE SHARPLESS:
13 Uh-huh.

14 TIMOTHY THOMAS: I would like to
15 know, once and for all, which road is considered
16 Colusa from Adelanto Road to 395. There's a
17 double road running through there.

18 COMMISSIONER JANANNE SHARPLESS:
19 Okay. Who is able to answer that question? I am
20 certainly not.

21 TIMOTHY THOMAS: The north to the
22 south one.

23 COMMISSIONER JANANNE SHARPLESS: Is
24 anyone able to answer that question?

25 BOB COOK: I'm not sure I understood

1 the question.

2 COMMISSIONER ROBERT LAURIE: From
3 395.

4 RICHARD TROWER: The old road that's
5 closer to Adelanto is Colusa Road. The one that
6 we went when they put the pipeline is just the the
7 right one.

8 TIMOTHY THOMAS: I beg to differ.

9 RICHARD TROWER: According to the
10 atlas.

11 TIMOTHY THOMAS: I know I've heard
12 so many different stories. I found survey markers
13 out in the field that I stepped off myself. And
14 they go to the northern -- the northern road.
15 That's when I guess is Colusa. The phone line is
16 along the northern section. Water line is along
17 the northern section. So I would assume that
18 would be Colusa Road.

19 So I want somebody to tell me for
20 sure which one.

21 COMMISSIONER JANANNE SHARPLESS: I
22 think you asked a very good question, and I think
23 I'm not prepared to provide you an answer
24 obviously, but I think we will be prepared to give
25 you an answer. And can I turn to Mr. Buell and

1 say, "Mr. Buell, how would you suggest we answer
2 the road question for the public since the public
3 has a right to know?"

4 RICHARD BUELL: I believe that we'll
5 address that in our advised Preliminary Staff
6 Assessment to identify the roads on a scale that
7 would be easily readable by the public so we can
8 identify which of the roads in that area of the
9 project is going to be located.

10 COMMISSIONER JANANNE SHARPLESS: And
11 that would be available when?

12 RICHARD BUELL: As Caryn explained,
13 the end of this month.

14 COMMISSIONER JANANNE SHARPLESS:
15 Commissioner Laurie?

16 COMMISSIONER ROBERT LAURIE: I was
17 concerned about that approach. I don't know what
18 the road looks like, but I understand the nature
19 of the issue. I would ask that the committee
20 direct staff to be on site with the applicant with
21 property owners. I want somebody pointing out
22 what everybody thinks the road is, that what
23 everybody thinks the road is not.

24 And I want applicant's understanding
25 allowing with staff's understanding with reference

1 to something other than a map.

2 COMMISSIONER JANANNE SHARPLESS:

3 Mr. Valkosky?

4 STANLEY VALKOSKY: Yes. I would
5 just like to suggest to Mr. Cook or one of the
6 other representatives that been in the field that
7 assist Mr. Thomas in describing with greater
8 particular at the road that you're talking about.

9 TIMOTHY THOMAS: I would love that
10 somebody get with me right out there physically, a
11 surveyor or somebody that we can show the markers
12 and what I'm looking at.

13 COMMISSIONER JANANNE SHARPLESS:

14 Commissioner Laurie and staff, I'm sure that you
15 will be able to do this, but we need to set up a
16 time and a way to have this work efficiently and
17 within the schedules that people -- and deal with
18 your schedule as well. Would you have something
19 more to say?

20 BOB COOK: I would just offer that I
21 would be glad to meet with him in the field and
22 show you what we have. In fact, we're out there,
23 doing survey work now. And we should be able in
24 the next few weeks -- be able to determine exactly
25 where that alignment is. We have researched the

1 records and have found that, for the most part,
2 that's an 80-foot road.

3 So it's just a matter of finding
4 where that 80 feet is on the road. I suppose so.
5 But we'll be glad to meet with you and go over the
6 details.

7 STANLEY VALKOSKY: Certainly you
8 should set something up at least Mr. Trower and
9 Mr. Thomas. And I mean it seems to me that
10 there's a general confusion over what you are
11 talking about as, quote, the "road." You got to
12 start there.

13 COMMISSIONER JANANNE SHARPLESS:
14 Mr. Buell, you've got a busy schedule; and there's
15 a lot of work and analysis to be done on July 31,
16 but are you able to assist in this as well?

17 RICHARD BUELL: Certainly. Staff is
18 willing to schedule an offsite visit of that back
19 portion of the gas pipeline as well as the rest of
20 the gas pipeline should be desired by any of the
21 parties. I would ask that those that are
22 concerned sign our sign-up sheets that will have
23 your names and addresses, make sure I can contact
24 you on what is actually a good day for you.

25 And I understand that you also

1 probably have limitations on their schedules, and
2 I would like to accommodate where, Mr. Thomas, you
3 would make good for use. So if you would give me
4 your name and address.

5 COMMISSIONER JANANNE SHARPLESS: And
6 phone numbers.

7 RICHARD TROWER: My wife is a horse
8 trainer if you want to stop by. You can't miss
9 the horse ranch.

10 COMMISSIONER ROBERT LAURIE: I hope
11 we're not complicating this too much. And let me
12 suggest that Mr. Cook get with Mr. Thomas and
13 Mr. Trower in the field.

14 And if any of those individuals
15 notify us that that is not satisfy that as far as
16 the alignments and the names of the roads and
17 where they are, then we can take the next step
18 because my suspicion is that the folks that are
19 out surveying on the road if they get to the
20 property owner as long as they would be able to
21 resolve that fairly quickly in the field rather
22 than bringing staff out.

23 COMMISSIONER JANANNE SHARPLESS:
24 Well, I was honoring Commissioner Laurie's
25 request. Commissioner Laurie, do you have a --

1 COMMISSIONER ROBERT LAURIE: That's
2 fine. Staff can be there if there is -- if there
3 turns out to be a problem. We don't know if
4 there's a problem or not. There's a problem today
5 because there's confusion. Obviously if the
6 property owners and the applicants can figure it
7 out, then we don't have a problem. I don't want
8 to make a big deal.

9 COMMISSIONER JANANNE SHARPLESS: We
10 can take the first step. And if there is further
11 need for clarification, we'll take the second
12 step.

13 COMMISSIONER ROBERT LAURIE: Great.

14 COMMISSIONER JANANNE SHARPLESS:
15 Thank you for calling it to our attention. Okay.
16 Any other comment? Seeing none, hearing none, I'd
17 like to take about a five-minute break because
18 we're going to move this section of the proceeding
19 to the section that talks about schedule and
20 status of the overall project.

21 So let's give us an opportunity to
22 let people leave the room but don't have an
23 interest in that and give us a slight break. I'm
24 looking at the clock in the back. That means we
25 are back here at about a quarter after 11:00.

1 Thanks.

2 (pause in proceedings)

3 COMMISSIONER JANANNE SHARPLESS: If
4 I could get your attention, if I could get your
5 attention, please, I would like to get started in
6 the second half. Okay. Thank you.

7 On the second half of this meeting
8 is dealing with the scheduling of issues as I've
9 said. And in our -- in the committee's second
10 revised scheduling order, we specified due dates
11 for certain key note items necessary for analysis
12 of this project. And we will now have the
13 applicant and then staff, CURE, discuss the
14 progress which has been made on all items
15 scheduled to date.

16 And these include events pertinent
17 to the topics of air quality transmission,
18 response from the Department of Toxic Substance
19 Control, sufficiency of data for the second
20 natural gas pipeline, and information concerning
21 review by federal agencies.

22 Also we will look for additional
23 information which may be available concerning
24 CURE's June 11 letter to the Federal Aeronautics
25 Administration and any clarification concerning

1 the appropriate roles of various entities
2 involving the supplying of water for this project.

3 So why don't we start with air
4 quality applicant.

5 RICK WOLFINGER: Let's see. I think
6 that by the -- we had that Letters of Intent for
7 our offsets in by June 15 and which had -- we
8 submitted that and with the required quantities.
9 And let's see.

10 On air quality also we needed to
11 provide turbine data for the Westinghouse G gas
12 turbine and also some data for the Siemens that
13 was submitted and then had to be submitted by the
14 end of June. And that was submitted. I think was
15 on the -- either Friday or Monday of this. So
16 that was -- that has been.

17 VOICE: With the L.O.I.'s, we
18 submitted that and with the L.O.I.'s?

19 RICK WOLFINGER: No. We didn't
20 submit that to the L.O.I.'s, that was a package
21 that was came. Anyway that's been submitted also
22 for the air quality. I think that's the two if I
23 remember. I don't have the schedule in front of
24 me, Commissioner.

25 COMMISSIONER JANANNE SHARPLESS:

1 Uh-huh.

2 RICK WOLFINGER: I think those are
3 the two items that need to be done.

4 COMMISSIONER JANANNE SHARPLESS: I
5 believe that the day was the day that you were to
6 file the Siemens and the Westinghouse 501.

7 RICK WOLFINGER: That's been done.

8 COMMISSIONER JANANNE SHARPLESS:
9 That's been done?

10 RICK WOLFINGER: Right.

11 COMMISSIONER JANANNE SHARPLESS: I
12 am aware that you had a workshop on the air
13 quality issues yesterday and by the searching for
14 the air quality issue here. In the Event 9, and
15 since you don't have your schedule, so this will
16 be a probably a little bit more difficult for you
17 to follow, but I'll try.

18 Mojave Desert Air Quality Management
19 District provides the review of banking
20 applications by May 29. And I guess that question
21 was has this been done?

22 RICHARD BUELL: Why don't I try to
23 provide a brief summary of what occurred at
24 yesterday's workshop. And also we have
25 representatives of the district here that could

1 probably answer some of your specific questions
2 on -- for example, on the banking applications
3 what the status and review is.

4 COMMISSIONER JANANNE SHARPLESS:

5 Okay. Fine.

6 RICHARD BUELL: Yesterday we
7 conducted a workshop on the comments on the Mojave
8 Desert's District's employment Determination of
9 Compliance of various parties I have received
10 which included the applicant's staff, U.S. EPA,
11 the California Air Resources Board, California
12 Unions for Reliable Energy, and also community and
13 environmental services representing SCONOx,
14 S-C-O-N-O-x, SCONOx, small X.

15 It's an acronym. A lot of air
16 quality folks use acronyms. And I apologize. I
17 have a tendency to use them like U.S. EPA and
18 Environmental Protection Agency.

19 We discussed those, and we discussed
20 also the schedule for various events on air
21 quality. Regarding the banking certificates that
22 the district has at least reviewing, perhaps we
23 can be best to defer to Al, our -- one of the
24 district representatives if we could.

25 COMMISSIONER JANANNE SHARPLESS: Is

1 there a district rep here, please, who can come
2 up? The question is have you completed your
3 adequacy review of the banking applications?

4 ALAN DeSALVIO: We have completed
5 the adequacy review on -- I think you're concerned
6 about four particular: Mitsubi Cement, Pacific
7 Gas and Electric, and George Air Force Base.
8 We've completed the adequacy analysis on two of
9 those, which resulted in letter in a filing of
10 incompleteness which we are -- those two were
11 those -- actually it was three: Mitsubi Cement,
12 PG&E, and Southern California Gas.

13 We received sufficient information,
14 to move forward with the proposed issuance on
15 PG&E. We are in the middle of the public comment
16 period on that proposed issuance. That public
17 comment period ends on July 16.

18 We have -- we're in the process of
19 working on Mitsubi Cement and Southern California
20 Gas. I believe I received some information today
21 at the office from Southern California Gas, which
22 may make them complete. And we are in the process
23 of working on the George Air Force Base
24 application. So I don't know if that's real
25 clear.

1 COMMISSIONER JANANNE SHARPLESS:
2 What are the type of credits involved in the each
3 one of those applications? Are they all Knox?

4 ALAN DeSALVIO: All four include
5 Knox, George Air Force Base, also includes
6 V.S.E.'s.

7 CARYN HOUGH: If I understand what
8 you said correctly, you completed your
9 determination and found that PG&E's application
10 was complete. You did a determination and found
11 that Mitsubi and So. Cal. Gas were not the
12 identified additional information that's needed.
13 And then the George Air Force Base application --
14 is it still under review for completeness? Is
15 that --

16 ALAN DeSALVIO: That's a complicated
17 application. A lot of it's a shutdown of air
18 force base. We feel confident we will be taking
19 action on that application soon, very soon.

20 COMMISSIONER JANANNE SHARPLESS: As
21 parts of this -- of the issue of George's Air
22 Force Base have to do with who can have legal
23 assets, who has ownerships of the credits?

24 ALAN DeSALVIO: That's one of the
25 issues.

1 COMMISSIONER JANANNE SHARPLESS: And
2 involved in similar issues for Maither. Could we
3 perhaps get some kind of feel for when you might
4 anticipate banking some of these certificates?
5 Can you give us any idea of when the process might
6 bring some of these credits into the bank?

7 ALAN DeSALVIO: You're no longer
8 confident stating when we are going to bank them.
9 As we've issued a letter -- we submitted our
10 notice, a proposed issuance of PG&E. And the
11 reason I'm vacillating a little bit is because
12 there's a public comment period. We have to
13 determine -- we have to review public comments.

14 We expect to do -- we internally
15 expect to do some issuances on these others by the
16 end of July, no later than the end of July. But
17 that's dependent on the -- essentially dependent
18 on the outcome of the PG&E public comment period.
19 Again this is the first time we've done this. We
20 want to make sure that we get our details
21 straight.

22 COMMISSIONER JANANNE SHARPLESS:
23 What is your comment period?

24 ALAN DeSALVIO: Thirty days.

25 COMMISSIONER JANANNE SHARPLESS:

1 Thirty days. And can you also talk a little bit
2 about the P.M. 10 and the road paving application.

3 ALAN DeSALVIO: We have resolved the
4 ownership of George Air Force Base credits. That
5 was one of the issues, but it's been resolved.

6 I'm sorry. What was the question?

7 COMMISSIONER JANANNE SHARPLESS: And
8 it was resolved in your favor?

9 ALAN DeSALVIO: We determined who
10 has ownership.

11 COMMISSIONER JANANNE SHARPLESS: And
12 the owners are --

13 THE WITNESS: Southern California
14 International Airport Authority.

15 COMMISSIONER JANANNE SHARPLESS:
16 Okay. Congratulations. Tough one. It's not
17 easy. As I say, I've been involved. I was asking
18 the question about the P.M.T. road paving
19 applications and where that might be -- the status
20 of that.

21 ALAN DeSALVIO: We don't have any
22 applications. We are engaged in conversations
23 with applicant and the jurisdictions containing
24 the roads. We feel confident that we'll be able
25 to resolve that offset situation with the project

1 such that we'll be able to issue A.T.C.

2 COMMISSIONER JANANNE SHARPLESS:

3 Okay. Our schedule Event 25 shows those
4 applications being available on July 20, I
5 believe.

6 ALAN DeSALVIO: I don't think I'm in
7 a position to comment on --

8 COMMISSIONER JANANNE SHARPLESS:

9 Okay.

10 ALAN DeSALVIO: -- on applications
11 for those roads. I think -- in fact, I don't
12 think I want to comment on that.

13 COMMISSIONER JANANNE SHARPLESS: I'm
14 trying to read a check. Based on the committee's
15 schedule, 25 was sent out on the -- is that
16 June 4? -- about we show the Mojave Desert Air
17 Quality Management issuing proposed banking
18 certificates and indicating whether the
19 applicant's proposed P.M. 10 and road paving
20 applications will be acceptable.

21 ALAN DeSALVIO: They are acceptable.

22 COMMISSIONER JANANNE SHARPLESS:

23 Okay.

24 ALAN DeSALVIO: The information that
25 we have -- I can't describe it as an application,

1 but the information that we have regarding roads
2 that have been identified for paving is
3 acceptable.

4 COMMISSIONER JANANNE SHARPLESS: Is
5 sending it -- is it anything about Colusa? You
6 weren't here earlier. We had a Colusa issue.
7 Could you --

8 ALAN DeSALVIO: Alan DeSalvio with
9 the Mojave Desert. A-l-a-n D-e capital
10 S-a-l-v-i-o, M.D.A.Q.M.D. air quality -- Mojave
11 Desert Air Quality Management District.

12 COMMISSIONER JANANNE SHARPLESS:
13 I'm -- well, while you're up at the microphone,
14 I'm trying to scan here to see if there's any
15 other issues.

16 CARYN HOUGH: Commissioner
17 Sharpless, being I was going to ask, since we were
18 on about Event 25, Mr. DeSalvio indicated that he
19 doesn't think that the 20th will be a problem for
20 P.M. 10 road paving applications. I wondering
21 about the other half whether or not the July 20 --
22 it didn't sound to me like July 20 was going to be
23 a date that's feasible, given any more thought.

24 I heard you said that you would like
25 to be -- you were proposing to issue proposed

1 banking certificates by the end of July. And that
2 would start at the 30-day comment period. Is
3 that -- understand that correctly?

4 ALAN DeSALVIO: Yes.

5 CARYN HOUGH: So that you issue the
6 final certificates until the end of August?

7 ALAN DeSALVIO: At the earliest.
8 And, of course, that -- actually the actual
9 Issuance of Certificate is dependent on the
10 comment period, comments received, or the comment
11 period.

12 COMMISSIONER JANANNE SHARPLESS:
13 That partially my question is whether they are
14 going to issue a final D.O.C. without having the
15 banking certificates.

16 ALAN DeSALVIO: We will not be
17 issuing a final D.O.C. without the banking
18 certificates.

19 COMMISSIONER JANANNE SHARPLESS: So
20 we're looking at August. What was the range you
21 were talking about?

22 ALAN DeSALVIO: I don't know if you
23 want me to answer this, Bob. All right. The
24 discussions that we've had internally are that we
25 will be waiting to reissue a preliminary D.O.C.

1 upon receipt, upon issuance of those certificates.

2 That would be tentatively in a
3 comment period which would be sometime in August,
4 probably early August, which would then have
5 another 30-day comment period. And hopefully soon
6 thereafter, we would be issued a final D.O.C.
7 That would be sometime in early October.

8 COMMISSIONER JANANNE SHARPLESS:

9 Okay. Were there any other questions?

10 RICHARD BUELL: I had the same
11 question.

12 COMMISSIONER JANANNE SHARPLESS:

13 Same question, okay. Are there other questions we
14 have of the district at this point? Okay.
15 Mr. Valkosky?

16 STANLEY VALKOSKY: You indicated
17 that reissue the Preliminary Determination of
18 Compliance early to mid August; right? And you
19 have a 30-day comment period on that?

20 ALAN DeSALVIO: Yes.

21 STANLEY VALKOSKY: Okay. So in your
22 tentative final D.O.C. then anticipated in that
23 being mid September. Or did you say mid October?

24 ALAN DeSALVIO: Sometime after the
25 expiration of the 30-day comment period. We feel

1 that that's a reasonable day. Yeah.

2 STANLEY VALKOSKY: Okay. So we're
3 looking at mid September?

4 ALAN DeSALVIO: Did I say October?
5 Well, it depends on the comments. So many of
6 these things are contingent on -- I think we're
7 going to be a lot more comfortable with plus 30 to
8 a lot of these other dates completion of issuance
9 and the comment period, but we think that time
10 frame, September time frame, is reasonable.

11 STANLEY VALKOSKY: Okay. Okay. So
12 I mean, again without trying to get a firm date
13 just for our scheduling purposes, so we would be
14 looking at that sometime late September to early
15 October. Is this a sufficient to your answer?

16 ALAN DeSALVIO: Do you want to
17 specify a date? 1st of October.

18 STANLEY VALKOSKY: 1st of October,
19 thank you.

20 COMMISSIONER JANANNE SHARPLESS:
21 Okay. Yes.

22 RICHARD BUELL: You said you're
23 going to issue a new P.D.O.C. after what event --
24 issuance of banking certificates or proposed
25 issuance of banking certificates?

1 ALAN DeSALVIO: After issuance.

2 RICHARD BUELL: Okay.

3 ALAN DeSALVIO: It would be sometime
4 after the end of the comment period, which we are
5 tentatively planning will be end of July to the
6 beginning of the 30-day comment period. So end of
7 August will be the end of that comment period. We
8 would be issuing a permit sometime after that.

9 MARC JOSEPH: So sometime in
10 September you would issue a new P.D.O.C. which I
11 think would take you to sometime in October to a
12 30-day comment period.

13 ROSELLA SHAPIRO: Not October 1.

14 CARYN HOUGH: I'm having the same
15 problem with the dates. Let me start back at the
16 beginning and see where I made the mistake. I
17 thought that what you said was you were going to
18 be issuing a preliminary banking certificate --
19 whatever it's called -- at end of July.

20 That was followed by a 30-day
21 comment period, which means that if all of the
22 comments are favorable or there are no comments,
23 the earliest you were issuing the actual banking
24 certificates was the end of August.

25 And I thought you said that the

1 Preliminary Determination of Compliance would
2 follow the issuance of the certificates, which
3 would be presumably the beginning of September and
4 that that you would have a 30-day comment period
5 on that. And that puts you into October for the
6 final D.O.C.

7 But some of the dates are
8 overlapping because I -- is that the sequence?
9 Okay. Thank you.

10 ALAN DeSALVIO: We need some time in
11 there. Maybe October 15 is a more accurate date.

12 COMMISSIONER JANANNE SHARPLESS: He
13 said depending on the public comment.

14 CARYN HOUGH: Right. So I
15 understand that it is the preliminary certificates
16 and 30 days the final certificates, the
17 preliminary -- the revised Preliminary
18 Determination of Compliance 30 days final and
19 potentially more, given the comments.

20 ALAN DeSALVIO: Correct.

21 CARYN HOUGH: Okay.

22 ROSELLA SHAPIRO: I have a question
23 about the P.M. 10 applications then. So I thought
24 that we weren't going to be able to resolve P.M.
25 10 applications until the end of August, not in

1 July but in August. Isn't that what you said?

2 COMMISSIONER JANANNE SHARPLESS: For
3 the roads?

4 ROSELLA SHAPIRO: For the roads. So
5 does that put this all off even further because
6 will you be able to do the P.D.O.C. before the
7 road paving applications are all done?

8 ALAN DeSALVIO: There is some
9 question as to how that's going to be resolved.
10 There's been some internal discussions about doing
11 concurrent reduction for the roads and really in
12 contracts between the air district, the
13 jurisdiction involved, and the applicant. That,
14 to be honest, has not quite been ironed out at
15 this stage.

16 ROSELLA SHAPIRO: But potentially, I
17 mean, what we were understanding when we were
18 asking about that Event 25 and the road paving --
19 that was going to be at the end of August. And
20 then that would roll everything out another
21 several weeks.

22 BOB COOK: Bob Cook with the air
23 district.

24 The road paving will not go through
25 the banking system. It will be done as a

1 simultaneous reduction and under contract between
2 the applicant and whatever the appropriate city
3 might be.

4 RICK WOLFINGER: I don't think
5 there's an application at all to be filed with the
6 Mojave Desert Air Quality Management District. I
7 think what it is is that we assume that that's the
8 case, and we set up the schedule five weeks ago
9 that there was an application to be done. It
10 turns out after discussing it, there really is no
11 application that is applied for the Mojave Desert.

12 It a contract between the High
13 Desert Power Project and the cities that we're
14 going to work with. They will look at it to make
15 sure that, in fact, with the silk content that
16 there is a likely event that, in fact, if you pave
17 those roads, you'll get tonnage. But there's no
18 physical application that's done.

19 BOB COOK: And all that analysis
20 will be part of the preliminary D.O.C. that goes
21 out for public comment.

22 RICK WOLFINGER: Right.

23 ROSELLA SHAPIRO: The preliminary
24 D.O.C. doesn't get issued until the road paving is
25 resolved.

1 COMMISSIONER JANANNE SHARPLESS:

2 That depends on what you mean by "resolved."

3 ROSELLA SHAPIRO: Contracts are
4 signed.

5 RICK WOLFINGER: I think if we -- I
6 don't know. Well, that's another issue as to
7 whether you need E.R.C.'s under contract or not.
8 Do you need it under -- is it good enough to say
9 that we're going to -- we have Letters of Intent
10 with these cities to enter into it. Do I need
11 firm contracts? I mean, then we can do another
12 issue too.

13 BOB COOK: Oh, we have a basic
14 agreement with several cities that they're willing
15 to do this type of project.

16 COMMISSIONER JANANNE SHARPLESS: But
17 they are going to be considered offsets. And so
18 as offsets that have to meet --

19 BOB COOK: They have to meet the
20 same requirements.

21 COMMISSIONER JANANNE SHARPLESS:
22 Yes. They have to meet the requirements. So when
23 you call it an application or whatever you call
24 it, it's going to be a mitigation as going to be
25 in the offset, and they have to meet the offset

1 requirements.

2 BOB COOK: Yes.

3 COMMISSIONER JANANNE SHARPLESS:

4 Right.

5 RICK WOLFINGER: The point is I
6 can't give you an application on Mojave Desert Air
7 Quality letterhead saying, "This is how I do it."
8 The doesn't work that way. It works on a
9 contractual basis. So it's not a physical
10 application.

11 CARYN HOUGH: Right. But if I
12 understand correctly, what you're saying is with
13 the Preliminary Determination of Compliance is
14 reissued. That question of the issue of the
15 requirements that Commissioner Sharpless was
16 referring to for the road pavement will be
17 included in the document.

18 BOB COOK: Yes. And the road
19 pavement must be completed before they start
20 construction just a like in New York City.

21 COMMISSIONER JANANNE SHARPLESS:
22 Okay. Okay. Any other questions? I note that
23 July 6 I think -- thank you very much. July 6,
24 Staff, you have to the committee do something
25 regarding Letters of Intent obviously if this is

1 still underway. Are you going to be meeting that
2 deadline?

3 RICHARD BUELL: Yes. Staff will --
4 intends to provide our assessment of the Letters
5 of Intent on July 6. Next Monday, I believe that
6 is. Primarily the staff has reviewed those. And
7 as we had discussed in the workshop yesterday, we
8 believe that the Letter of Intent and the attached
9 option contract to the General Electric, General
10 Motors -- excuse me. Wrong party -- was complete.

11 We do have -- we had preliminary
12 identified this also some data efficiencies that
13 could be easily fixed. At least in some of the
14 cases, we think it's a matter of identifying the
15 address of the owner of the offset. I know the
16 address of the offset, for example.

17 But more importantly some of the
18 Letters of Intent rather than indicate, as staff
19 has recommended in our letter, that the parties
20 are willing to enter into a contract with the
21 applicant to secure offsets. It merely says that
22 they're willing to enter into negotiations with
23 the applicant to eventually enter into their
24 contract to purchase those offsets.

25 We're concerned whether or not that

1 really meets the intent of the Letters of Intent
2 and what we have defined it as for a Letter of
3 Intent. And we'll be reviewing that and advising
4 the committee on what our recommendation is on
5 whether those are complete.

6 Another aspect of -- related to this
7 is that Mr. Wolfinger also indicated that he's
8 still in the process of negotiating with other
9 potential sources of offsets and intends to file
10 additional Letters of Intent in the process. And
11 we're concerned that perhaps the applicant had not
12 absolutely completed the performance date for the
13 Letters of Intent.

14 And they're still outstanding
15 Letters of Intent. And I believe one of those
16 might include, may I say, PG&E issues, which is
17 one thing the district has been identified to say
18 it's complete. Did you have something you wanted
19 to add?

20 CARYN HOUGH: I've been corrected.

21 COMMISSIONER JANANNE SHARPLESS:

22 There were some offsets also that were being
23 considered by the South Coast Air Quality
24 Management District. Is that not right?

25 RICHARD BUELL: The offsets that

1 were from General Motors are from South Coast.
2 And we had thought that the contractual
3 information that that applicant had provided was
4 adequate for that purpose. One of the issues that
5 we also discussed regarding contractual event
6 arrangements was in the necessity and when it
7 would be required to submit the actual option
8 contracts or contracts.

9 U.S. EPA in their letterhead
10 identified that they had the desire that there be
11 some contractual or binding agreement provided
12 prior to the issuance of the Determination of
13 Compliance.

14 And based upon the discussions at
15 the workshop yesterday, U.S. EPA felt it necessary
16 to go back and try to understand better how
17 necessary was that prior to issuing the actual
18 Determination of Compliance. Staff had
19 recommended, and I think their committee had
20 provided some guidance in their scheduling order.

21 I have a document that they thought
22 we needed that information prior to the issuance
23 of a Final Staff Assessment so at least prior to
24 the evidentiary hearings.

25 So we're again concerned that with

1 the P.D.O.C. being later than we had expected
2 rather that there is a possibility that we should
3 reevaluate when the commission staff should issue
4 its revised Preliminary Staff Assessment. You
5 are --

6 COMMISSIONER JANANNE SHARPLESS:
7 Better basis for that for making that decision
8 once we receive your July 6 report.

9 RICHARD BUELL: Yeah. There is
10 other issues that we will probably likely raise in
11 that July 6 report that don't directly relate to
12 the Letter of Intent issue but were identified as
13 part of the workshop discussion yesterday.

14 For example, the applicant is
15 examining the possibility of changing what they
16 might be proposing as best available control
17 technology for Knox emissions in the combining
18 cycle mode of operation. Or at least
19 Mr. Wolfinger said that he is looking at levels
20 less than three E.P.M. and looking at averaging
21 time. That may accommodate the applicant's needs.

22 In addition, the applicant
23 identified that they were at least examining the
24 possibility of installing the C.O. catalyst on to
25 address on C.O. emissions, also volatile organic

1 compound emissions. There are some issues of that
2 to identify before they make those decisions. And
3 I'll let Rick add what he wants to clarify that
4 point.

5 But the point being, from staff's
6 perspective, is that the project is changing as we
7 speak. And it does present some concerns on
8 staff's part on how relevant and revised P.S.A.
9 might be at this point in time.

10 ALLAN THOMPSON: Let me, if I may,
11 address one of the issues.

12 COMMISSIONER JANANNE SHARPLESS:
13 Okay.

14 ALLAN THOMPSON: Three or four weeks
15 ago, we committed to providing staff with comments
16 on P.S.A., which we filed on Monday. Those
17 comments unfortunately run to 20 something pages,
18 but there are two major issues that were raised.

19 And I tried to deal with a fairly
20 logical manner before I got down to what I
21 considered the fairly minor comments and
22 suggestions. The first of those issues was the
23 FAA issue.

24 And I would urge staff or read our
25 filing and see if they would agree with it. The

1 second -- and reason I bring this up is the second
2 goes to the issue at the timing of the acquisition
3 of the E.R.C.'s, the offsets. And I, at least,
4 have changed my position while doing the research.

5 I used to believe that the offsets
6 were required prior to a commission final
7 decision.

8 In reviewing past commission
9 decisions, reviewing the Warren office stack,
10 reviewing the staff pronouncements of a year or so
11 ago and the position of the district, I became
12 convinced that a correct reading of the Warren
13 office stack is the offsets must be obtained prior
14 to the start of construction and that the district
15 must certify that the offsets will be acquired by
16 the applicant prior to the start of construction.

17 Now, this was -- these kind comments
18 were really addressed to staff. And I would urge
19 that they would read that with regard to this
20 issue. But this issue has ramifications well
21 beyond this project.

22 For example, in a 365-day licensing,
23 if applicant is to wait, if a D.O.C. is issued 180
24 to 210 days out the process and applicant is
25 supposed to acquire the offsets before the staff

1 issues its testimony, I don't know if there's
2 enough time to allow all that occur within the
3 normal course. And I guess what I'm suggesting by
4 this is that it is a fairly serious inquiry.

5 And I would guarantee that this will
6 be watched carefully by substantive applicants.
7 And if we are in the process of changing
8 commission precedent or redefining or
9 reinterpreting commission, the Warren office
10 stack, we at least would like to to have an
11 opportunity to present the legal issues and
12 arguments in front of the committee before that
13 decision is made.

14 COMMISSIONER ROBERT LAURIE:
15 Commissioner Sharpless, a question.

16 COMMISSIONER JANANNE SHARPLESS:
17 Yes, Commissioner Laurie.

18 COMMISSIONER ROBERT LAURIE: This is
19 the first time this was issued -- the issue of the
20 legal question been brought up?

21 CARYN HOUGH: This issue has come up
22 in past siting cases.

23 COMMISSIONER ROBERT LAURIE: I mean,
24 I'm referring to this case.

25 CARYN HOUGH: No. The issue has not

1 come up in several times in this case.

2 COMMISSIONER ROBERT LAURIE: Do we
3 have the staff position on the question -- do we
4 agree with the applicant's position that we can
5 condition the project on the obtaining offsets?

6 CARYN HOUGH: Yes. I do.

7 COMMISSIONER ROBERT LAURIE: You
8 disagree?

9 CARYN HOUGH: Yes.

10 COMMISSIONER ROBERT LAURIE: Then,
11 Commissioner Sharpless, we're going to be asking
12 our counsel, our hearing officer, for direction on
13 the common question. I suppose as the committee
14 or has herself taken a position contrary to the
15 applicant's statement at this time?

16 COMMISSIONER JANANNE SHARPLESS:
17 Well, we haven't taken a position yet, as you
18 know, because we've been holding these status and
19 informational hearings and trying to help guide
20 and direct the process.

21 I could only say that the discussion
22 we just had with the air district somewhat
23 confuses me with what was just stated because if
24 we're talking about final certificates being
25 issued, I assume that's not necessarily to the

1 project that -- you know, I read the U.S. EPA
2 comments. And I read the California Air Resources
3 Board.

4 Our process is a fold between the
5 Warren office stack and CEQA. Our process is an
6 equivalent CEQA process; and we must follow all
7 the federal, state, and local ordinances. And if
8 you read the U.S. EPA comments and if you read the
9 California Air Resources Board comments, it would
10 seem to me that they're leading you into a
11 position where offsets must be in hand in order to
12 issue the permit.

13 Now, I may be wrong about that, but
14 that's the way I read it.

15 Now, if this agency were to go
16 forward and we were violating federal law -- so I
17 guess the question is, Miss Hough, what is your
18 reading of federal law regarding this issue? The
19 applicant has brought a Warren atlas and
20 precedence established by this organization.

21 But federal law has also been
22 changed since some of our previous siting cases
23 again has been strengthened and tightened with
24 respect to air quality requirements. Have you
25 already rendered the position that Commissioner

1 Laurie is asking for?

2 CARYN HOUGH: I'm not aware of
3 anything in federal law that prohibits the
4 commission from requiring offsets being obtained
5 by the applicant prior to license. It's our
6 position that the Warren office stack, in fact,
7 requires that. And that requirements is not
8 inconsistent with federal law.

9 I do not know because I have not
10 researched the question as to whether or not the
11 federal law itself would require that. But I do
12 believe that our requirement that they be obtained
13 prior to licensing is not inconsistent with
14 federal law.

15 RICK WOLFINGER: Commissioner --

16 COMMISSIONER JANANNE SHARPLESS:
17 Could I ask one more question. I was very
18 carefully listening. It does not prohibit, but
19 you don't know if it requires?

20 CARYN HOUGH: That's correct.

21 COMMISSIONER JANANNE SHARPLESS:
22 Okay. And the reading of the U.S. EPA letter made
23 it sound as though it was a requirement. Did you
24 read the letter that way?

25 CARYN HOUGH: I did read the letter

1 that way. And I will point out that when we were
2 at the workshop yesterday, the EPA representatives
3 said that they would be going back and consulting
4 with EPA lawyers to determine whether or not they
5 had to correct legal terms. He said that he was
6 not fully aware of all of the differences between
7 Letters of Intent, option contracts, contracts for
8 purchases.

9 So he did indicate that he would be
10 talking to EPA lawyers and getting back to us. So
11 perhaps we could look to them for some guidance on
12 that.

13 COMMISSIONER JANANNE SHARPLESS: In
14 reality I think, to respond to Commissioner
15 Laurie, we've had hours of discussion on this and
16 in our informational hearings. And we've talked
17 about Letters of Intent. We've given examples of
18 Letters of Intent. We've talked about timing.

19 But the committee hasn't come down
20 yet to the decision on precisely what -- other
21 than the Letters of Intent, what it's going to be
22 requiring. And I don't know whether it's
23 appropriate, but I suspect that this is what we're
24 going to be doing during the adjudication process.
25 Is it not, Staff?

1 CARYN HOUGH: You may well be --
2 typically in past siting cases, questions of law
3 have been resolved by having the hearing officer
4 and committee request briefings and then having
5 oral arguments.

6 COMMISSIONER JANANNE SHARPLESS:
7 Before the adjudication.

8 CARYN HOUGH: I've done them both as
9 part of the adjudication process as well as
10 before.

11 COMMISSIONER JANANNE SHARPLESS: In
12 past cases this issue has come up?

13 CARYN HOUGH: Not this specific
14 commission issue but other questions of law,
15 questions of jurisdiction, and the like.

16 COMMISSIONER JANANNE SHARPLESS:
17 Well, then this is something that, Commissioner
18 Laurie, you and I will consider as to -- okay.
19 Fine. Okay. Then we'll come out with something
20 following this meeting. Okay. Fine. Any other
21 questions? I didn't allow you to finish.

22 RICK WOLFINGER: Couple of comments.
23 Number 1 is it's our understanding of federal law
24 that, under federal law, offsets have to be cured
25 before you begin operations. And that's what --

1 if, in fact, there was no state law, no Mojave
2 Desert Air Quality Management has a tighter
3 restriction.

4 The federal law says it has to be
5 there by the time you begin commercial operations.
6 You don't have to identify them. You don't have
7 to do anything. You have to agree that you're
8 going to have them by then. If you have them
9 before a commercial operations, they're
10 quantifiable. But you don't have to have them in
11 hand before commercial operations. There are
12 tighter restrictions that exist due to other
13 issues.

14 And that is what the requirements
15 are of the California Energy Commission and what
16 the requirements may be of the Mojave Desert Air
17 Quality Management. So the EPA letter didn't
18 speak to what federal requirements were.

19 But it did. It spoke to what it
20 felt was the interpretation of the Mojave Desert
21 Air Quality Management requirements and the C.E.C.
22 requirements -- that's at least my understanding
23 of it -- that, in fact, I think that the area
24 that's going to be pushing this, as a matter of
25 fact, is what's required by the district and

1 what's required by the C.E.C., not by the federal
2 side of it, No. 1.

3 Number 2 is we also feel, as the
4 applicant, that we shouldn't be required to get
5 specific E.R.C.'s. In other words, we should show
6 that we have under option to buy or have under
7 contract to buy if we need 400 tons of Knox.

8 We have 400 tons of Knox. They're
9 quantifiable. We shouldn't be required to buy
10 those 400 times. And later if there's another
11 plant that should shut down or something that
12 happens, that, in fact, more Knox comes on line
13 that are quantifiable and that are part of the
14 district and the district has approved that as an
15 offset, then we should have the right to buy those
16 other offsets.

17 They may be cheaper in price or
18 something like that. The way it works is that if
19 they're banked and they're acceptable to the
20 district, we should have the latitude of buying
21 any ones that we want. But we do agree that we
22 should show there are sufficient offsets
23 available. And we should be under contract to buy
24 the quantity that we needed but not necessary the
25 ones.

1 We have one more under option, and
2 we have more under contract than we actually need.
3 So that was the point.

4 COMMISSIONER JANANNE SHARPLESS:
5 Okay. Well, we will decide how we want to resolve
6 this issue once --

7 CARYN HOUGH: I want to respond to
8 that for a moment because I think it may affect
9 the scope of your outcome. We think that is a
10 legal issue as well -- the question of whether or
11 not specifically offsets need to be obtained. And
12 the reason that is the case is that the staff
13 California Involvement Quality Act, we have an
14 interest in knowing where the specific location of
15 the offsets is.

16 And that's because of the fact that
17 power plants, being very large sources, sometimes
18 have specific impacts and specific locations and,
19 as a result, would like to know where the offset
20 sources are to know whether or not the offsets
21 actually have an effect on that particular impact.

22 Now, we have not finished our
23 analysis, and we do not know if that will be the
24 case for this specific project. But as a general
25 rule, we believe that the California Environmental

1 Quality Act to requires us to look at that issue.
2 Secondly, as I said before, that the Act does
3 require offsets prior to certification.

4 They would be obtained by the
5 applicant. We would be prepared to address both
6 those issues, if you direct us to do so, in your
7 scheduling order as questions of law. And then
8 lastly, I think, Mr. Buell forgot one other item
9 with respect to air quality. That could be --

10 RICHARD BUELL: Two points I would
11 like to raise, one, in response to your statement
12 about EPA requirements.

13 And I refer you to the EPA letter,
14 and the EPA letter identifies that, under federal
15 law, the district must make a determination of
16 whether or not the offsets are federally
17 enforceable prior to issuing of the compliance.
18 And then further to find that to determine federal
19 enforceability, you must determine whether they're
20 real quantifiable surplus. And I think I got the
21 right adjectives.

22 COMMISSIONER JANANNE SHARPLESS: Is
23 that before they issued an --

24 RICHARD BUELL: Before they issue a
25 compliance.

1 COMMISSIONER JANANNE SHARPLESS:

2 Fine.

3 RICHARD BUELL: Before they issue a
4 preliminary determination.

5 COMMISSIONER JANANNE SHARPLESS:

6 Doesn't it go back into the loop? And that is if
7 in fact, it is enforceable, that somehow you have
8 to know what they are?

9 RICHARD BUELL: Exactly. That was
10 the point I was trying to make although this may
11 be a question of whether or not I need a contract
12 to demonstrate that the applicant has secured
13 those offsets or a Letter of Intent. There is
14 implicit interest in the EPA letter under
15 requirement to identify that the offsets, specific
16 offsets, have been secured for the project.

17 It's the mechanism, the legal
18 mechanism, by which you show that it is at issue
19 perhaps.

20 COMMISSIONER JANANNE SHARPLESS: I
21 think that's what I picked up in the letter that I
22 read. And, you know, whether you're talking about
23 it being not -- let's see -- not precisely
24 prohibited. But, you know, whether it's
25 specifically required, I think obviously we're

1 going to need to go through this issue in a
2 special briefing and try to resolve it.

3 Yes. May I stop? Did I see
4 Chairman Dunlap from the California Air Resources
5 Board?

6 RICK WOLFINGER: He's here, yes.

7 COMMISSIONER JANANNE SHARPLESS:
8 He's here, but he's not here.

9 ROSELLA SHAPIRO: He waved.

10 VOICE: He went to lunch.

11 RICHARD BUELL: Just one other
12 observation, the consequences of yesterday's
13 workshop: Mr. Cook had identified that they had
14 requested a change in their operational profile
15 for the project identifying that they would like
16 to have the option with more start-ups, basically
17 keeping within an annual --

18 COMMISSIONER JANANNE SHARPLESS:
19 CAT?

20 RICHARD BUELL: -- CAT. And staff
21 believes that that's a possibility, but we'll need
22 to analyze that issue. And we haven't done so
23 yet.

24 Intuitively it sounds like it is a
25 plausible approach to provide the applicant

1 flexibility.

2 What we need to try to understand,
3 for example, how many start-ups are physically
4 possible today to understand whether or not that
5 will change that daily missions or annual missions
6 and what limitations that might place in the
7 project. So there are nuances here that may
8 require additional analysis by staff.

9 STANLEY VALKOSKY: Are you going to
10 address this in the July 6 filing?

11 RICHARD BUELL: Yes.

12 STANLEY VALKOSKY: Including the
13 legal issue as you see it?

14 CARYN HOUGH: I was going to address
15 the question of Letters of Intent which are
16 sufficient in the 6th filing. I not going to
17 address the question of when E.R.C.'s have to be
18 obtained and whether or not their specific
19 location must be identified. I thought that was
20 going to be the result of committee order.

21 STANLEY VALKOSKY: I just meant
22 framing the questions that are in dispute, not a
23 legal briefing as to your position on them.

24 CARYN HOUGH: I would certainly be
25 happy to add that to the 6th filing.

1 STANLEY VALKOSKY: If you could,
2 when or -- did the representative from EPA
3 indicate that they would get back with their
4 clarification?

5 CARYN HOUGH: He wasn't sure. I
6 talked to him after the meeting yesterday. I'll
7 stay in contact with him and see where that goes.

8 STANLEY VALKOSKY: Thank you.

9 MARC JOSEPH: If I could make a
10 comment here.

11 The legal issue is interesting, but
12 I'm not sure that it really requires this
13 committee to resolve it at this point because what
14 we heard the air district say is that they are
15 going to follow the procedure which was contained
16 in our comment letter and a number of the comment
17 letters which is first that the E.R.C.
18 certificates have to be issued and those being
19 included in the P.D.O.C.

20 So in terms of the schedule, it's
21 the air district's correct interpretation of their
22 own rules which resolves the question, I think.

23 COMMISSIONER JANANNE SHARPLESS: But
24 they're going to be issued to whom? Issued to the
25 bank?

1 MARC JOSEPH: Then you have a
2 separate question.

3 COMMISSIONER JANANNE SHARPLESS:
4 Yes. I think that's the point being made here
5 that the certificates will be issued, and there
6 will be an indication in the D.O.C. that there is
7 this level of E.R.C.'s out there for this, this,
8 and this.

9 But whether or not the applicant is
10 required to negotiate a contract, I have those
11 E.R.C.'s before a final determination is made --
12 is an issue that's not clear here at this point.

13 MARC JOSEPH: The comment I wanted
14 to make on that -- there's one important
15 distinction: Mr. Thompson said he didn't think
16 the applicant had to acquire the offsets. And I
17 think we should keep in mind the distinction
18 between actually acquiring the offsets and having
19 an option contract, which gives them a revocable
20 right to obtain the offsets should they exercise
21 the option.

22 And if you look at the language in
23 EPA's letter where they quote the section of the
24 Clean Air Act, they quote the section that says,
25 "The offsets have to be federally enforceable

1 before it's -- such permit may be issued."

2 COMMISSIONER JANANNE SHARPLESS: As
3 an option?

4 MARC JOSEPH: That's the open
5 question.

6 COMMISSIONER JANANNE SHARPLESS:
7 That's the question that the federal people are
8 going to come back and --

9 MARC JOSEPH: I just want to make
10 the comment so, when someone frames the question,
11 we clearly distinguish between a right to acquire
12 and actual acquisition.

13 COMMISSIONER JANANNE SHARPLESS:
14 Would you have a comment?

15 BOB COOK: Yes. Along this line the
16 E.R.C.'s are issued to a company that's requesting
17 them: PG&E, Southern California Gas, whatever.
18 By going through the banking system and issuing an
19 E.R.C., you then verify that they're federally
20 enforceable: their surplus; they're quantifiable,
21 whatever those five things are. So then you've
22 met all those requirements.

23 The applicant then must show -- and
24 that's what we're waiting for from EPA -- a
25 difference or some kind of a document, saying that

1 "See, all these offsets were available for this
2 project." And we have made some kind of
3 arrangement. And that's what we're waiting from
4 EPA to obtain what we need.

5 COMMISSIONER JANANNE SHARPLESS: So
6 you're going to count on U.S. EPA's judgment as to
7 whether the arrangement would be --

8 BOB COOK: At this time. There's no
9 question. You have to be in our possession before
10 you start construction. The thing is what does
11 EPA want to see?

12 COMMISSIONER JANANNE SHARPLESS:
13 Right. That's precisely what I was going to say.
14 You're going to take U.S. EPA's counsel as to what
15 that would be?

16 BOB COOK: Yes.

17 COMMISSIONER JANANNE SHARPLESS:
18 Okay.

19 RICK WOLFINGER: Just to make a
20 point, I think if you look back at all the other
21 decisions, I don't know of everybody that
22 purchased 7 and a half million dollars' worth of
23 offsets prior to having a certificate from the
24 C.D.C. to even go ahead and build a plant.

25 I mean, I don't think you'll find a

1 history where those kind of actions have really
2 occurred. And I think that's what you're asking
3 us to do at this point in time is to spend
4 millions and millions of dollars when I don't even
5 have a certificate. I haven't gone through
6 evidentiary hearings.

7 I think that's a burden that, quite
8 frankly, is above and beyond what has been
9 required in past. And I'm not sure exactly what
10 EPA is going to come out and say, but I don't
11 think -- I don't see the presence of that in the
12 past.

13 CARYN HOUGH: We'll be happy to
14 provide some other documentation.

15 COMMISSIONER JANANNE SHARPLESS:
16 Right. And then there's the issue of not even
17 after the P.D.O.C. is actually issued, we feel
18 that do you even need to have taken out any
19 credits at the time that the Energy Commission
20 makes its final determination? Or is it for --
21 you have up until the time that you actually
22 construct?

23 ALLAN THOMPSON: And I guess my view
24 is that if you want to read the statute to say
25 that the actual offsets have to be acquired at the

1 time of final decision or you have to have a
2 certification that they will be acquired before
3 construction, both of those are so far cry from
4 holding the staff testimony hostage until we
5 acquire the offsets. There was a huge difference
6 there.

7 And that's what staff has us to do.
8 Staff was basically saying we're not going to give
9 you our testimony. We're not going to give you
10 our views on your project until you go out and
11 spend \$7 million. That's where we have our
12 initial difficulty.

13 BOB COOK: I think EPA makes it
14 clear in their letter that they don't require the
15 offsets in place until the plan is operational.
16 But the district requires are in place before they
17 start construction. Another question is what does
18 EPA want before.

19 COMMISSIONER JANANNE SHARPLESS: To
20 improve forceability. Right. Okay. Well, that's
21 an issue we'll have to deal with. Thank you.
22 Let's see if we can get through transmission
23 because I understand that there's been a delay
24 there. And the real question is what does the
25 delay mean in terms of the schedule? Is anybody

1 able to answer that question?

2 RICHARD BUELL: Let me explain to
3 the best of what I understand the issue to be at
4 this point in time. It's -- as I recall the
5 I.S.O., the California Independent System
6 Operator, had issued additional informational
7 requirements of Edison, Southern California Edison
8 Company, to provide additional clarification in
9 their interconnect study.

10 They requested that that study be
11 provided by June 19. Edison has been unable to
12 provide that. Although the most recent estimate
13 that one of that would be provided is today to the
14 I.S.O. The I.S.O. has previously indicated that
15 they would provide an analysis in two weeks
16 subsequent to that filing.

17 However, there are a number of
18 issues that are being identified at this point in
19 time. And I think the I.S.O. is not committed to
20 any specific date for providing their analysis at
21 this time. They expect it to be towards the end
22 of this month. But they may need additional time
23 until we receive -- rather that until they receive
24 the information.

25 I think the issue of when they

1 provided analysis may be uncertain. We are
2 scheduled to have a workshop on the topic of
3 transmission lines on July the 9th -- excuse me --
4 in Sacramento to discuss the status, try to come
5 to some understanding of what it's going to take
6 to resolve these issues. So we would conduct that
7 workshop as scheduled.

8 COMMISSIONER JANANNE SHARPLESS: Can
9 you give the committee sort of an essence of what
10 we're talking about in terms of the issues? What
11 are the issues?

12 RICHARD BUELL: I am not sure that I
13 understand transmission line sufficiently well
14 enough to give you a detailed discussion of what
15 that is.

16 The I.S.O. had identified previously
17 what they thought they could deal with any
18 overload situations presented by this project by
19 what they call, if I get the terminology correct
20 here, management control methodology where you
21 would operate the system in such a way as to deal
22 with overload situations by curtailing as
23 appropriate various generators or as the case
24 might be.

25 COMMISSIONER JANANNE SHARPLESS:

1 Change the generators? What about the
2 environmental issue, reliability issue, and an
3 economic impact?

4 RICHARD BUELL: Those are the issues
5 that the I.S.O. is now dealing with is trying to
6 understand the applications of those actions.

7 COMMISSIONER JANANNE SHARPLESS: Did
8 they give you any sense of how long it's going to
9 take them?

10 I indicated they're having a meeting
11 with internally. I am not sure if I got the right
12 communities there.

13 RICHARD BUELL: They are in the
14 process of responding to the I.S.O.'s, essentially
15 reconducting that hearing. So --

16 COMMISSIONER JANANNE SHARPLESS:
17 Okay. Do we have a copy of that letter that they
18 sent to Edison?

19 RICHARD BUELL: The letters of
20 Edison -- I believe it was documented when I
21 received it.

22 COMMISSIONER JANANNE SHARPLESS: Can
23 you give me a feel for how many questions they ask
24 of Edison?

25 RICHARD BUELL: I neglected --

1 COMMISSIONER JANANNE SHARPLESS:

2 Pages and pages?

3 RICHARD BUELL: It was about a
4 two-page letter.

5 COMMISSIONER JANANNE SHARPLESS:

6 Okay. A lot of big questions, huh?

7 RICHARD BUELL: Yes.

8 COMMISSIONER JANANNE SHARPLESS:

9 Staff, do you have anything to say?

10 RICK WOLFINGER: What they really
11 asked for was they asked for some other multiple
12 contingency issues is really what they were asking
13 Edison for. I think some other issues they were
14 going to handle are really part of the
15 transmission study, what they really said was take
16 a look at the couple other cases if two or three
17 things happens that you didn't look at this case
18 or another.

19 Like, for example, if transmission
20 lines go down, both circuits go down
21 simultaneously. We particularly had that one line
22 where Edison only looked at one circuit going
23 down. And when the transmission power goes down,
24 typically are going to bring both the circuits
25 down. So those are some of the questions that

1 they ask.

2 I think the bigger questions is
3 we're not actually asked of Southern Cal. Ed.
4 They're more policy questions that really this is
5 the issues. So I think So. Cal. Ed. -- the
6 answers are relatively perfunctory. It's a
7 technical thing. But it's some of those bigger
8 philosophical, which doesn't have anything to do
9 with our project. It's not a, I think, as big.

10 You'll characterize it's a
11 philosophical approach of how they're going to
12 control the electrical system in California.

13 COMMISSIONER JANANNE SHARPLESS: And
14 if it doesn't, it doesn't, I guess, because, you
15 know, it depends on how they think that they're
16 going to handle the scenarios whether they can do
17 it through some management system or whether it
18 requires some kind of upgrade. And then the
19 question is it requires upgrades. Who pays for
20 the upgrades?

21 RICHARD BUELL: And what the
22 environmental consequence is.

23 COMMISSIONER JANANNE SHARPLESS: And
24 what the environmental consequences of those are.
25 Anything else?

1 Caryn, did you? No? Anybody else
2 like to talk about transmission? I think this is
3 kind of an easy one. Department talks of
4 substance and control.

5 This is just -- have we heard
6 anything? Where are we? Does Commissioner Laurie
7 need to make a call? Lean on these people.

8 RICHARD BUELL: Staff is, at the
9 committee's direction, issued a letter to -- I
10 believe it was Ted Rahl, one of the division
11 chiefs of the department, requesting for their
12 evaluation of whether or not a permit would be
13 required. And, if so, what would the condition
14 would have to be met.

15 That was sent earlier as the
16 committee, and I forgotten the exact date when it
17 was supposed to happen.

18 ROSELLA SHAPIRO: 15th.

19 RICHARD BUELL: We provided it on
20 that date, and we asked for a response by July 15.
21 And the department informed us that there was a
22 lot of issues that they needed to review and that
23 they would not be able to provide a response by
24 that date. They did indicate --

25 COMMISSIONER JANANNE SHARPLESS: Not

1 issues on this. It's just a pile of stuff that
2 they're doing beyond this?

3 RICHARD BUELL: The specific issues
4 on this proposal, as I understand, they had needed
5 to -- they had assigned a person other than the
6 ones that we had dealt with previously. And that
7 person had to come up to decide on all the issues
8 that the other staff person had already addressed.
9 So it's one of those situations.

10 We had last I had contact directly
11 with the department that he had expected to have a
12 response late last week, earlier this week. So
13 when we get back to the office, perhaps we have
14 the response. If not, then I will attempt to get
15 the information available from the department on
16 what they will be able to respond.

17 COMMISSIONER JANANNE SHARPLESS: Who
18 is the director of that? Is that Jessup?

19 RICHARD BUELL: I'm not sure. The
20 director of the department. The head of the
21 division that we're dealing with is Ted Rahl.

22 COMMISSIONER JANANNE SHARPLESS: And
23 the department director is Jessup. Okay. We
24 answered that one. Yes. They've sent us. Yes.
25 Okay. FAA has to do with stack heights.

1 RICHARD BUELL: I have not had the
2 opportunity to review the applicant's responses to
3 our comments on staff's P.S.A. section. So I will
4 speak today in being blind of what those might
5 say. There are two points. It's California
6 Unions for Reliable Energy had identified a
7 concern about the Determination of Compliance.

8 We had a condition that would
9 require a stack height in excess of what the
10 applicant had proposed. And it was determined at
11 that workshop yesterday that that was a mistake.
12 The district is not going to issue a requirement
13 that the stack heights be other than what the
14 applicant has identified, which clarifies that
15 issue.

16 Keith Goldrun, who is our staff
17 person and president of the audience -- and he's
18 been dealing with this issue -- has been in
19 contact with FAA and has received the calculation
20 work sheets that the FAA has used to evaluate this
21 project and has found what could be a discrepancy
22 in the calculations.

23 And this is new information. We
24 have not had an opportunity to confirm the
25 question raised by the calculation that Keith has

1 reviewed. It would appear that the project could
2 be over the height restrictions by as much as ten
3 feet.

4 And we need to talk to FAA to
5 determine first whether or not we've done the
6 calculations correctly or we're reading the
7 documents correctly and, second, whether or not
8 that FAA has the discretion to determine that that
9 is not a hazard, in any case, and permit the
10 project. Staff believes that this is the critical
11 issue.

12 We don't think that we're pursuing
13 this ferviously. We think that if there is an
14 issue here that needs to be resolved, we should
15 resolve it now, not in two years when the FAA
16 might actually issue a permit for this project
17 requiring the line requirements.

18 COMMISSIONER JANANNE SHARPLESS:
19 Okay. So applicant has given this letter. Staff
20 hasn't had the opportunity to review it.
21 Applicant, would you just like to summarize your
22 position.

23 ALLAN THOMPSON: Yes. I would like
24 that opportunity. We have basically washed our
25 hands of this issue because frivolous indeed

1 describes it and probably describes it as of a
2 month or two months ago an ongoing inquiry asking
3 a federal agency their interpretation of the
4 rules, not once, not twice, three times and ad
5 nauseam.

6 Staff first asked the issue of
7 applicant; applicant asked the airport; the
8 airport asked the FAA; the FAA concluded and in
9 the words of staff that the project stacks would
10 not create a hazard to navigation. Staff asked
11 again, got a letter dated May 5, for the FAA said
12 we concur with our original no hazard
13 determination. Not good enough.

14 Staff asked again. And there is a
15 point, I suspect, when a state agency's
16 questioning of a federal agency's interpretation
17 of its own rules becomes embarrassing. And I
18 don't know if we've hit that yet.

19 But we would prefer not to get
20 between this agency's continued questioning of the
21 F.A.A.'s interpretation of its rules and the
22 agency. So we don't like hearing that staff
23 believes that this is a critical issue because
24 this is an issue that may not go away.

25 There may be a time -- and we may

1 have reached that -- when the FAA stops returning
2 phone calls because they think that they have
3 dealt with this issue. And then we are in limbo
4 where staff keeps asking the question and there's
5 no further response because the federal agency
6 doesn't believe a response is warranted.

7 So we actually feel fairly strongly
8 about this that it's been asked and answered more
9 than once.

10 COMMISSIONER JANANNE SHARPLESS:
11 Okay. Okay. Has the staff height changed in the
12 process?

13 KEITH GOLDRUN: Okay.

14 COMMISSIONER JANANNE SHARPLESS:
15 Now, remember, you guys: This is a status, and I
16 sense there's tension in the room. So I'd like
17 everybody to just stop for a second and remember
18 why we're here. And in the final analysis, if
19 this issue still hangs and there's still a
20 difference of opinion, then it becomes
21 adjudicated.

22 And the committee will make a sound
23 decision, I promise you, because we're not in
24 the -- we're not in the middle of this match; we
25 are judging it. So what do you have to say? Has

1 there been change in the stack height?

2 KEITH GOLDRUN: No. There has not
3 been a change in the stack height. My review of
4 the information from the FAA is that they appear
5 to have used the incorrect site elevation for the
6 power plant site. It's a very simple calculation
7 here.

8 The FAA used the site elevation of
9 2,850 feet. The pad elevation that is provided in
10 A.F.C. for the two combined sitable units vary
11 between 2,857 feet to 2,859 feet. So it is
12 basically an issue as to what is the pad or the
13 site elevation of the project.

14 COMMISSIONER JANANNE SHARPLESS: And
15 when did you discover this difference in
16 elevation?

17 KEITH GOLDRUN: Well, when I finally
18 got the calculations from the FAA, I compared that
19 site elevation figure that they used to the
20 figures in the A.F.C. figures 3.3-3 and figures
21 3.3-2, which show the pad elevation of the units.
22 And I would only presume that, therefore, that is
23 the base elevation of the stack.

24 And adding the stack height to that
25 would put it approximately eight to ten feet into

1 this horizontal air space.

2 COMMISSIONER JANANNE SHARPLESS:

3 Okay. And communicating now with FAA, have you
4 indicated to them that there's a discrepancy
5 between the project site and their calculations?

6 KEITH GOLDRUN: I haven't had a
7 chance to contact them yet. I'm going to contact
8 them as soon as I can with this and fax him the
9 pertinent information from the A.F.C. to ask if he
10 would, you know, consider what is in the A.F.C.
11 whether there's some discretion on the FAA on this
12 issue. Perhaps it is not that critical to them.
13 I just don't know at this point.

14 COMMISSIONER JANANNE SHARPLESS:

15 Okay. Good. We'll resolve this issue. Make a
16 coupling.

17 KEITH GOLDRUN: Okay. And this is
18 the only issue. Other issues, I believe, are
19 resolved concerning other air space issues and the
20 other issues. This is the one issue that remains
21 that, I believe, has been unresolved.

22 COMMISSIONER JANANNE SHARPLESS:

23 Okay. Stan, do we have time?

24 ALLAN THOMPSON: Thank you.

25 KEITH GOLDRUN: Quite welcome.

1 COMMISSIONER JANANNE SHARPLESS:

2 Maybe I can ask Mr. Buell: Are you going to put
3 something into the revised P.S.A.?

4 RICHARD BUELL: This issue would be
5 addressed in the P.S.A. revised, yes. One of
6 the -- we have had -- I received information and
7 prior to the P.S.A. issuing it in May under which
8 was not included in the analysis preliminary
9 simply because it was received only a week prior,
10 too.

11 So the P.S.A. currently is not
12 completed discussion and certainly in the revised
13 P.S.A. provided our estimation, our analysis of
14 the --

15 ALLAN THOMPSON: I apologize for not
16 bringing it up. The second letter came right
17 before the P.S.A. was issued.

18 COMMISSIONER JANANNE SHARPLESS:
19 Okay. Thanks. Thank you. Do you have anything
20 to add, enlighten?

21 MARC JOSEPH: No. The one issue we
22 raised was based on the State's P.D.O.C., which
23 said stacks shall be no less than 65 meters which
24 translates into 38 feet over the FAA requirement.
25 Yesterday it was reported that it was an error

1 simply on their part.

2 COMMISSIONER JANANNE SHARPLESS:

3 Okay. Fine. Take that one off my list. Okay.

4 Sufficiency of pipeline data would be probably

5 best to start with the staff on this, do you

6 think?

7 RICHARD BUELL: Yes. We start out

8 by saying that there is a couple of items that are

9 outstanding. And, I believe, you are aware of

10 some of these things. One of which is the

11 confidential on the paleontological resources. I

12 understand from Amy that this is to be filed

13 today. Or was it filed yesterday?

14 AMY CUELLAR: The confidential

15 paleontological documents were filed yesterday.

16 RICHARD BUELL: Another deficiency

17 which I think the applicant has identified prior

18 at the last --

19 COMMISSIONER JANANNE SHARPLESS: Can

20 you speak up? My ears.

21 RICHARD BUELL: Another deficiency

22 that was identified prior at our last status

23 conference was the informational write up for the

24 wildlife surveys. The survey work sheets were

25 provided and put the filing, but the actual write

1 up, analyzing those was not provided on June 15.
2 I understand again that this should have been
3 filed yesterday from the --

4 AMY CUELLAR: We were intending to
5 file that information yesterday, but I believe
6 that it needs a little bit more project review.
7 We believe that information is a little bit more
8 project review that so we're not prepared to file
9 that information today. We prepared to file that
10 next Wednesday, which I believe is July 8.

11 RICHARD BUELL: Another area that
12 Mr. Joe Hagan, our water sources person, has
13 identified is the pipeline resource incidental
14 with Arroyo's awashes that would require a permit
15 from, I believe, the Army Corps of Engineers.

16 AMY CUELLAR: Yes.

17 RICHARD BUELL: And also an analysis
18 by U.S. Fish and Wildlife Services. And the
19 information provided thus far it does not contain
20 a discretion of that and does not identify that
21 that will take place or when that will take place.

22 AMY CUELLAR: Regarding the issue of
23 potential desert washes and information that will
24 be supplied to the U.S. Army Corps of Engineers.
25 The field work was completed June 24 through June

1 26 for that delineation. What we intend to do is
2 revise our original wetland delineation report,
3 which was submitted to Corps, I believe, in April
4 and are in the process of doing that right now.

5 And expect I would say probably mid
6 July to September to submit that report to the
7 Corps.

8 ROSELLA SHAPIRO: Is this a
9 performance?

10 COMMISSIONER JANANNE SHARPLESS:
11 Right, Rose.

12 RICHARD BUELL: It appears to me
13 that there's some other deficiencies that I don't
14 have in my notes complete enough to identify what
15 it is. If one does exist, we will identify it in
16 our submittal on July the 6th.

17 STANLEY VALKOSKY: As part of that
18 submittal on July 6, I presume there will be a
19 staff assessment as to whether or not applicant
20 has met the performance date requirements.

21 RICHARD BUELL: Yes. We will also
22 issue some to staff although they have been
23 identified as being completed as identified data
24 request on that. We would also submit, as
25 directed, issue date of request on that date.

1 MARC JOSEPH: If I could make a
2 comment on that specific point, in the schedule
3 there is a deadline for submitting data requests
4 on the new pipeline on July 6. Since there is
5 some information still coming in, I would hope
6 that the committee's next order revises that
7 information that comes in after July 6. We can't
8 get it fast enough.

9 COMMISSIONER JANANNE SHARPLESS: I
10 can't hear the last part. I just didn't hear you.

11 MARC JOSEPH: I would hope that that
12 whatever order the committee comes out with next
13 recognizes that we can't get an asked data request
14 that about things that haven't come in by July 6.

15 COMMISSIONER JANANNE SHARPLESS:
16 Right.

17 ALLAN THOMPSON: We'll agree to the
18 date of the request time for those items that have
19 not been missed the deadline.

20 ROSELLA SHAPIRO: Good.

21 COMMISSIONER JANANNE SHARPLESS:
22 Okay. And the committee will address that. Okay.
23 Mr. Buell, does that cover --

24 RICHARD BUELL: That covers the July
25 16 submittal on the natural gas pipeline.

1 COMMISSIONER JANANNE SHARPLESS:

2 Okay. Now, could I ask about the federal review
3 and finance.

4 RICHARD BUELL: Yes. We have been
5 working with Mr. Robert Cannon with the Department
6 of Interior Bureau of Land Management. And on
7 July 23, we received a letter from him outlining
8 the agency's approach to analyzing this project.

9 Basically, as my understanding, the
10 agency has determined that they will not combine
11 the review of the project power plant and a
12 natural gas -- second natural gas pipeline under a
13 Section 7-A Permit but rather will continue with
14 their work for a Section -- I've got all this
15 right. Section 10 (1) A-B will continue for the
16 power plant as previously undertaken.

17 And the bureau will undertake a
18 Section 7-A analysis for the second natural gas
19 pipeline and that the --

20 COMMISSIONER JANANNE SHARPLESS:

21 Translate that for me. So what does that mean?
22 Anybody wondering the same thing?

23 CARYN HOUGH: A Section 10 permit is
24 basically a take permit for a private project.
25 And then the Section 7 permit is the consultation

1 that federal agencies do when somebody -- when
2 they're going to take action that could affect
3 endangered species on their property. So in the
4 first case, Fish and Wildlife would issue a
5 Section 10 permit to the applicant. In the second
6 case, the federal -- or I guess it's V.L.M. --
7 would apply to Fish and Wildlife for a Section 7
8 permit.

9 RICHARD BUELL: Thank you.

10 CARYN HOUGH: She doesn't look
11 enlightened at all.

12 COMMISSIONER JANANNE SHARPLESS:
13 Does this mean that they're paralleling, or does
14 this mean that one gets completed before the next?

15 CARYN HOUGH: I don't know what
16 their schedule is for those two permits. I know
17 that the Section 10 permit process was started
18 much earlier and --

19 COMMISSIONER JANANNE SHARPLESS:
20 Here is Mr. Buell to enlighten us. Can you say
21 your name and --

22 ROGER CANNON: I'm Roger Cannon.
23 I'm with the Barstow Field Office, the Bureau of
24 Land Management. I'll just maybe simplify this a
25 little bit. Our decision, in so many words, was

1 to cut the sheet right at the plant line. The
2 V.L.M. is in no position to even take time to read
3 about the plant.

4 Our concern is really with the
5 pipeline as it crosses federal land. And, of
6 course, we have to concern the Endangered Species
7 Act brings us under the Anebo makes us require --
8 requires us to consider the nexus between -- of
9 our action on private land that's involved.

10 So we are concerned with having a
11 consultation under Section 7 of the Endangered
12 Species Act, which we will request for the lands
13 that we're concerned with. And the project itself
14 will make application for the take permit under
15 Section 10.

16 COMMISSIONER JANANNE SHARPLESS: So
17 after you got -- I have a couple of questions.
18 First of all, just could you briefly explain what
19 a consultation is, what it involves. Is it a
20 public process? And how long does it take? But
21 also at the end of it, what does the applicant
22 have? What do we have? Do we have -- do we have
23 a permit?

24 ROGER CANNON: Well, when all the
25 dust settles, you have a right of way from the

1 federal government, from the Bureau of Land
2 Management that will have stipulations and, most
3 likely, mitigation measures attached to it. Now
4 we go back to the beginning of it all.

5 COMMISSIONER JANANNE SHARPLESS: The
6 process.

7 ROGER CANNON: That the process will
8 be described, and what we are waiting on now is
9 what's termed a "biological assessment," which
10 essentially is the wildlife description of all the
11 resources and assets that are going to be impacted
12 by the project.

13 With this in mind, we start
14 developing mitigating measures or stipulations and
15 request to be flippant to request Fish and
16 Wildlife to bless this by consultation under
17 Section 7.

18 COMMISSIONER JANANNE SHARPLESS: So
19 the consultation is really with the sister agency?

20 ROGER CANNON: Right. It is public
21 in the sense that everything we do is public, but
22 there's no hearings or anything involved.

23 COMMISSIONER JANANNE SHARPLESS: How
24 is the public then? How does the public know?

25 ROGER CANNON: By simply -- if they

1 the publicly have to ask us or request under Foyo
2 or be a routine request, "Can I see your request
3 for consultation?" And that would be produced.

4 COMMISSIONER JANANNE SHARPLESS: So
5 you really -- who does the biological survey?

6 ROGER CANNON: The contract?

7 COMMISSIONER JANANNE SHARPLESS:
8 Yeah.

9 ROGER CANNON: When we begin the
10 E.A. process, R.M.I. will be contracting to
11 Southwestern Gas. They will be working under our
12 direction. They will produce all this
13 information. Our specialist will review it and
14 then prepare the document requesting the
15 consultation.

16 COMMISSIONER JANANNE SHARPLESS: And
17 then the consultation results in looking at the
18 survey. And they're coming up with mitigations of
19 impacts?

20 ROGER CANNON: Right. That
21 basically they -- if everything goes smoothly,
22 they will concur in what we ask what we have
23 decided to do.

24 COMMISSIONER JANANNE SHARPLESS: And
25 how long does that process take? I mean under the

1 best of circumstances.

2 ROGER CANNON: They have a statutory
3 limit of 145 days. And I think they -- I believe
4 they have an additional 60 days to obtain an
5 additional information.

6 COMMISSIONER JANANNE SHARPLESS: And
7 when does the clock start ticking?

8 ROGER CANNON: Oh, when they receive
9 our request for consultation.

10 COMMISSIONER JANANNE SHARPLESS: And
11 their request for consultation comes after they
12 finish the biological survey, and that hasn't
13 happened yet and completed?

14 AMY CUELLAR: No. It has not been
15 completed and submitted to V.L.M. yet. We've got
16 a draft, which is currently being reviewed by the
17 project, and we will be submitting those on July 8
18 or hopefully before then.

19 COMMISSIONER JANANNE SHARPLESS: So
20 July 8 you get the information. Then you wouldn't
21 immediately send a letter for consultation, would
22 you? Or do you?

23 ROGER CANNON: No. That's the
24 problem because we're a rather small outfit. And
25 we have an awful lot of pies on our plate. It

1 would take two to three weeks probably to get
2 their biologist to review the material and prepare
3 a consultation. They say, "I'm trying to balance,
4 I think, 12 other requests of different complexity
5 myself."

6 COMMISSIONER JANANNE SHARPLESS:

7 Uh-huh.

8 ROGER CANNON: And so these things
9 come along. We try to take them in order, but
10 sometimes it's worthwhile to put a little extra
11 effort on certain areas.

12 COMMISSIONER JANANNE SHARPLESS: So,
13 say, two to three weeks then requests for
14 consultation goes out to the applicant office?

15 ROSELLA SHAPIRO: To the Fish and
16 Wildlife.

17 ROGER CANNON: It goes from V.L.M.
18 to Fish and Wildlife. And we would like to do
19 this in two or three weeks. If somebody gets
20 sick, the whole process comes to a screeching
21 halt.

22 COMMISSIONER JANANNE SHARPLESS:
23 Where do you want to say that? I want to see.

24 ROGER CANNON: Really neat. I'm
25 really going into this because I hope that the

1 commission understands that, you know, we have
2 many things that have to be done. And we can't
3 just do it immediately.

4 COMMISSIONER JANANNE SHARPLESS:

5 Okay. Question?

6 MARC JOSEPH: Commissioner

7 Sharpless, I'm glad you brought up the question of
8 public participation because I think the actual
9 answer is it's impossible for the public to even
10 know what's going on in the consultation process
11 until there is a final complete document.

12 I have, on several occasions in the
13 past with other projects, asked for the documents
14 which go from the agency to Fish and Wildlife,
15 which are the draft or proposed biological
16 opinions that have been told that those are
17 pre-decisional documents. And they're not
18 discoverable under Foya, and we would be happy to
19 tell you what we decide at the end.

20 So if this concern about the ability
21 of public participation, there won't be any unless
22 the commission is somehow able to obtain these
23 documents along the way so that they're available
24 to the rest of us.

25 COMMISSIONER JANANNE SHARPLESS:

1 Well, let me ask about the end of the year. You
2 brought up the fact that we were going to try to
3 develop an M.O.U. on this process.

4 So, Staff, do we have an M.O.U.?

5 And what is the essence of this area?

6 RICHARD BUELL: We had it at the
7 time when it was a possibility of combining it
8 under one -- both the projects analysis and the
9 pipeline's analysis under one consultation under
10 the Section 7 regulations. Believe they would be
11 appropriate to try to develop an M.O.U. with the
12 V.L.M.

13 Subsequent to that it would appear
14 we don't leave any M.O.U. in the process since
15 there's -- the processes are separated, that would
16 not be necessary. And that the V.L.M. has --
17 Mr. Cannon has identified -- has the sufficiency
18 to find that we wouldn't need an M.O.U. to
19 institute that review. So it's not something that
20 pursuing at this point in time. Have not.

21 COMMISSIONER JANANNE SHARPLESS:

22 Yes.

23 MARC JOSEPH: I don't understand.
24 V.L.M. has applications in NEPA. And I thought
25 that the M.O.U. that we were previously discussing

1 was to coordinate their obligation under NEPA to
2 do E.A. or E.I.S. with the staff and commission
3 process so that they didn't have to be duplicate
4 CEQA and NEPA processes.

5 COMMISSIONER JANANNE SHARPLESS:

6 Mr. Buell?

7 RICHARD BUELL: This issue was
8 addressed in the letter that we received on --
9 Mr. Houser received. And I am not sure I
10 understand the question at this point. But if the
11 V.L.M. representative would like to clarify this
12 issue. And there being either letter, perhaps
13 that would help.

14 ROGER CANNON: If I really
15 understand what you are asking, I think we believe
16 that it would be simpler to do a single NEPA
17 document and let the -- and not -- it's just I
18 believe it's mechanically because we have had
19 difficulty in dealing with documents that were
20 designed to come -- to cover NEPA and CEQA.

21 The formats are different and levels
22 of analysis are different. Is that any help?

23 RICHARD BUELL: Yes. In reading
24 the -- what basically I'm understanding is that
25 the project site would be analyzed under the

1 California Energy Commission's process. And if
2 U.S. Fish and Wildlife would participate in that
3 process to meet their needs in terms of
4 environmental review, V.L.M. will conduct its
5 independent NEPA document -- is that correct? --
6 for the second natural gas pipeline?

7 ROGER CANNON: Yes. V.L.M.'s
8 document will be limited to the pipeline. And we
9 then actually -- we will work with Southwestern --
10 Southwest Gas to obtain that -- to obtain --
11 really obtain the writing services.

12 RICHARD BUELL: And the staff's
13 document would address both the environmental
14 affects of the power plant and the second natural
15 gas and pipeline and cumulative effects that might
16 result from the construction both of those
17 process.

18 STANLEY VALKOSKY: How does the
19 staff document to this without having the --
20 basically the determination from the environmental
21 assessment, from V.L.M., Fish and Wildlife?

22 RICHARD BUELL: I am not sure what
23 it does to do that. It's my envisioning that he
24 would be working with those agencies to try to
25 determine, as I think we had identified in our

1 schedule previously, the requirements that those
2 agencies would likely place upon this project and
3 try to incorporate or read those into our
4 analysis.

5 When the analysis occurred at this
6 point in time might be post our Final Staff
7 Assessment which presents, I mean, the final
8 determination based upon the schedule that we've
9 received today and in the letter.

10 STANLEY VALKOSKY: I think that's
11 one of the concerns of the committee has because
12 if this information comes in a week from today and
13 V.L.M. will have two or three weeks -- so until
14 about August 1 -- to review it and then ask Fish
15 and Wildlife for a consultation.

16 If I understood Mr. Cannon
17 correctly, Fish and Wildlife will then have a
18 maximum of 145 days to issue their consultation;
19 is that correct?

20 ROGER CANNON: You can extend it to
21 200, but I don't -- that information is necessary.

22 STANLEY VALKOSKY: Okay.

23 ROGER CANNON: Throw that in as a
24 worst-case scenario.

25 STANLEY VALKOSKY: Okay. So

1 assuming no additional information if the
2 consultation is requested in August 1, Fish and
3 Wildlife takes roughly five months then that
4 pushes us essentially to the time when, under our
5 schedule, the commission will have a proposed
6 decision out there, in essence. I mean I may get
7 it off by a week.

8 RICHARD BUELL: As the schedule
9 stands from now, yes. Staff is also, as we
10 identified earlier today, we can believe that that
11 schedule is probably not workable for other
12 reasons.

13 CARYN HOUGH: What we had identified
14 at the last informational hearing or committee
15 support shop on schedule was that we would work
16 directly with both Fish and Wildlife Service with
17 V.L.M. try to get a sense what the conditions
18 would be. We would expect that the assessment
19 would perform and be somewhat the staff would
20 perform. There's no reason to believe that it
21 would be any different.

22 So we would try to get a sense of
23 mitigation measures. And I don't remember whether
24 I heard this from V.L.M. or from Fish and Wildlife
25 or through one of our biologists. It was our

1 understanding at the last workshop that we held
2 that there are typically standard conditions that
3 apply in certain situations.

4 There was some sense that you might
5 be able to get a good sense of what the likely
6 conditions that would be attached to the permit
7 would be. And that was the best we could do with
8 the schedule that we had at the time.

9 MARC JOSEPH: Can I jump in here. I
10 am actually getting more confused than last.
11 There are three agencies here with environmental
12 obligations. There's this commission and CEQA.
13 There's V.L.M. with NEPA, and there's Fish and
14 Wildlife, which has its own independent
15 obligations for the remainder of the project,
16 which is not under V.L.M. jurisdiction.

17 ROGER CANNON: The Fish and Wildlife
18 obligation is strictly under the Endangered
19 Species Act.

20 MARC JOSEPH: Right. But there are
21 obligations under the Endangered Species Act for
22 the parts of the project, which are not V.L.M.
23 parts of the project, which are not this pipeline
24 for the plant site and other linear facilities.

25 ROGER CANNON: Yes.

1 MARC JOSEPH: Triggers Fish and
2 Wildlife's obligations under NEPA. Now, what I
3 had thought that the idea was that there would be
4 a single document which addressed everyone CEQA's
5 obligation and everyone's NEPA obligations. Now
6 you're saying you want to have the NEPA document,
7 which covers only your part of the project.

8 That, I think, raises serious
9 questions about this legality.

10 This is one part of a larger
11 project, and you can't break it up into pieces.
12 And I don't see how your document can be adequate
13 without considering what Fish and Wildlife is
14 doing to the rest of the project or what any Fish
15 and Wildlife is doing to the project and the
16 reverse.

17 I don't see how Fish and Wildlife
18 NEPA obligations are satisfied for the remainder
19 of the project if they don't consider the V.L.M.
20 jurisdiction. I don't see how you can break this
21 up into pieces.

22 COMMISSIONER JANANNE SHARPLESS: I
23 don't think we are breaking it up. If I
24 understand what we're doing, we're looking at the
25 whole project. And I think their little question

1 becomes the process that the federal agencies use
2 to meet their federal requirements.

3 So now you're questioning whether or
4 not V.L.M. can fulfill its NEPA requirements
5 without looking at the entire project. I assumed
6 that you did some analysis in order to come to the
7 conclusion you could do that through a
8 consultation, Section 7 consultation process. Did
9 you have your legal people review this?

10 ROGER CANNON: No, we really didn't.
11 About three of us looked at this and decided that
12 it would be simpler, from our point of view, to
13 not have to consider the plan. You've raised a
14 very interesting question although I think
15 mechanically that the documents can be combined
16 and the results would be the same.

17 MARC JOSEPH: I think they should be
18 combined. What we've here is two co-federal lead
19 agencies which is essentially is working on a
20 single NEPA documents together. And I understand
21 clearly your interest is only a portion of the
22 NEPA document.

23 ROGER CANNON: If it's any help, the
24 Fish and Wildlife -- Amy, you have been talking to
25 Fish and Wildlife more than we have.

1 AMY CUELLAR: I don't think that the
2 project ever understood that we are going to be
3 preparing one document and that this was going to
4 be a separate consultation process with Section 10
5 for a project proper and Section 7 for the
6 pipeline.

7 Fish and Wildlife Service has not
8 made a final determination yet on whether or not
9 they will issue one biological opinion for the
10 whole project including the gas pipeline or two.

11 But they are, at this point,
12 expecting that they're going to see if the
13 pipeline and environmental assessment, biological
14 assessment, which will come from the V.L.M. when
15 they issued their formal consultation. And then
16 under the Section 10 consultation, they will
17 receive a habitat conservation plan for the rest
18 of the project.

19 MARC JOSEPH: I wasn't questioning
20 that plan for the Endangered Species Act. What
21 I'm talking about is the NEPA obligation that's
22 triggered both agencies, and V.L.M. is the lead
23 agency for the pipeline. And Fish and Wildlife is
24 the agency which is doing the Section 10
25 consultation for the remainder of the project.

1 Both have NEPA obligation which have to be
2 satisfied.

3 ROGER CANNON: Fish and Wildlife
4 will be only doing the habitat conservation plan
5 part under Section 10. And this for the --
6 presumably for the commission. They're your
7 clients.

8 COMMISSIONER ROBERT LAURIE: So Fish
9 and Wildlife does not have a NEPA -- a NEPA
10 obligation because they are not issuing any
11 discretionary approval. V.L.M. has their own NEPA
12 obligations. Is that a correct statement or --

13 ROGER CANNON: As I understand it,
14 that's where the line is drawn.

15 MARC JOSEPH: Let us backtrack.
16 They are issuing only a consultation to V.L.M.
17 They are issuing a permit under Section 10-A of
18 the Endangered Species Act to allow the applicant
19 incidental take. It is a permit issued by Fish
20 and Wildlife.

21 RICHARD BUELL: And I have a copy of
22 a report of conversation with Mark Suzarky, and I
23 had with Denish Warshock of U.S. Fish and Wildlife
24 in which she had indicated that they would --

25 COMMISSIONER ROBERT LAURIE:

1 Mr. Buell, lower your microphone.

2 RICHARD BUELL: Sorry. In which she
3 had indicated that the Section 10 1-B would be
4 require, what she's determining a public scoping
5 exercise on this is usually accomplished through a
6 piggy back through an environmental process such
7 as NEPA or CEQA document. And we identified that
8 the commission's A.F.C. process is that CEQA
9 documents for the purposes of the 10 (1)
10 A-B Permit.

11 So I think that their obligations on
12 the power plant are being met through our
13 document.

14 MARC JOSEPH: That is what I assumed
15 all along is the M.O.U. was going to deal with a
16 giant CEQA NEPA document just as the commission is
17 doing with the Sutter case, where the NEPA
18 document is continuous with the commission's CEQA
19 document.

20 COMMISSIONER JANANNE SHARPLESS: Is
21 there a M.O.U. in the Sutter case?

22 RICHARD BUELL: Yes, there is.

23 COMMISSIONER JANANNE SHARPLESS: So
24 are we down to the issue of entering into a
25 M.O.U.?

1 RICHARD BUELL: This is an issue
2 that staff did investigate more fully, but I am
3 not sure that one is necessary in this case at
4 this point in time.

5 COMMISSIONER JANANNE SHARPLESS:
6 Well, why do I feel like I'm chasing my towel
7 here? We know that we have to fulfill CEQA
8 requirements, and what V.L.M. is doing is going to
9 be part of the project that we're looking at.

10 So is it not important for us to
11 make sure that what they do meets our requirements
12 as well? Or are we going to do like a separate
13 study and impose yet additional conditions on top
14 of V.L.M.?

15 CARYN HOUGH: Think the intent --

16 COMMISSIONER JANANNE SHARPLESS:
17 Because that's short of what's implied, they do
18 their thing; we do our thing. We try to use their
19 analysis; but, you know, if we discover that their
20 analysis is not adequate under CEQA, now I assume
21 we have to do something to fix it.

22 CARYN HOUGH: Our approach was to do
23 our own complete analysis of the project's impacts
24 under CEQA. What we understood from V.L.M. is
25 they didn't want to coordinate their environmental

1 assessment with ours. They said it was simple for
2 them to meet their NEPA obligations separately.
3 And that's their case. They choose to do that.

4 What we hear informally from U.S.
5 Fish and Wildlife Service is that they plan to use
6 our CEQA document as a starting point for their
7 compliance with the NEPA. Now, we haven't taken
8 that any further and found out we haven't heard
9 any indication from them that they want us to add
10 something additional to our process in order to
11 accommodate that need.

12 We can certainly check on that and
13 get back to you and then subsequently if they do
14 determine whether an M.O.U. is necessary. But at
15 this point, staff believes it will be able to come
16 up with an assessment that is complete under CEQA.
17 V.L.M. has indicated that they're going to do
18 their own NEPA process separate from our process.

19 And U.S. Fish and Wildlife hasn't
20 formally indicated that they plan to use our CEQA
21 document as a basis from meeting this NEPA
22 requirements.

23 COMMISSIONER JANANNE SHARPLESS:
24 Help me out here. I thought the M.O.U. was to
25 make sure that we could do this in the most

1 efficient manner possible and meet the
2 requirements of everybody's law. The process
3 that's outlined today -- is this the most
4 efficient process possible?

5 CARYN HOUGH: Well, I'm relying on
6 V.L.M. for them telling us that doing it
7 separately is more efficient for them. They have
8 said that. And Fish and Wildlife is planning to
9 coordinate with us and --

10 COMMISSIONER JANANNE SHARPLESS: So
11 do we need an M.O.U. for Fish and Wildlife?

12 CARYN HOUGH: They haven't indicated
13 that. We would be happy to check on that specific
14 question with you and get back to you on the
15 filing.

16 COMMISSIONER JANANNE SHARPLESS: So
17 staff is satisfied that, given what V.L.M. has
18 said in terms of its process that we can do our
19 process once they've done their process.

20 CARYN HOUGH: We can do our process,
21 our CEQA process. We would be better off in terms
22 of including appropriate conditions of
23 certification in the commission's decision if we
24 knew exactly what V.L.M. is going to require for
25 granting its permit and if we knew what Fish and

1 Wildlife was going to require for granting its
2 permit under Section 10.

3 And as I said, what we had planned
4 to do initially was to try to anticipate what
5 those requirements would be, include those in the
6 Final Staff Assessment. And there may be some
7 more finality with that by the time you get to a
8 commission decision.

9 But in terms of our environmental
10 analysis, we are doing the complete environmental
11 analysis of the entire project under CEQA.

12 RICK WOLFINGER: Can I ask a
13 question?

14 COMMISSIONER JANANNE SHARPLESS:
15 Sure. Venture in here.

16 RICK WOLFINGER: I gather that --

17 COMMISSIONER ROBERT LAURIE: Excuse
18 me for a minute, Commissioner Sharpless.

19 COMMISSIONER JANANNE SHARPLESS:
20 Yes, Commissioner Laurie?

21 COMMISSIONER ROBERT LAURIE: Thank
22 you. Ms. Hough, I know, you just went through
23 this, but let me ask you again in one sentence
24 answers if you can. That's the only way I can
25 input it. What do we need from V.L.M. prior to

1 project approval?

2 CARYN HOUGH: We need to have
3 reasonable certainty about the conditions that
4 they will impose on the project as a result of the
5 Section 7 consultation with U.S. Fish and Wildlife
6 Service.

7 COMMISSIONER ROBERT LAURIE: What do
8 we need from Fish and Wildlife?

9 CARYN HOUGH: We need from Fish and
10 Wildlife Service -- a reasonable indication of
11 what conditions that they will impose on the High
12 Desert Project on the result of the Section 10
13 permit.

14 COMMISSIONER ROBERT LAURIE: Both
15 V.L.M. and Fish and Wildlife must act pursuant to
16 NEPA obligations; is that correct?

17 CARYN HOUGH: That's my
18 understanding.

19 COMMISSIONER ROBERT LAURIE: Okay.
20 In all my project experience, I have never had to
21 undergo the situation where I needed pre-project
22 federal approvals. And so I don't know what you
23 do when you're dealing with CEQA and our project
24 approval is dependent on a federal approval that
25 she says NEPA.

1 Does the fact that our project
2 approval is dependent upon federal action under
3 NEPA place us under any NEPA obligations?

4 CARYN HOUGH: NEPA does not apply to
5 the California Energy Commission. Could I add one
6 clarification? And that is obviously the
7 commission cannot issue a permit, but the license
8 that is in conflict with what a federal agency
9 ultimately decides is required.

10 In the past the commission has
11 issued permits or licenses, if you will, for
12 projects for which either Section 10 or Section 7
13 consultations are not complete. The license is
14 conditional upon the applicant meeting any
15 additional requirements that are imposed as a
16 result of Section 10 or Section 7.

17 What we are trying to do in our
18 staff assessment is anticipate what those
19 requirements will be so that we can incorporate
20 them in our Final Staff Assessment and you can
21 incorporate them in your license.

22 COMMISSIONER ROBERT LAURIE: Is it
23 your view that prior to project approval, we must
24 go further than your speculation and have actual
25 proposed conditions from the federal agencies?

1 CARYN HOUGH: I don't know that it's
2 required as a matter of law. I think it's prudent
3 in terms of having a decision that tells the
4 applicant and the world at large what the project
5 is going to have to comply with. Maybe
6 Mr. Valkosky could probably answer in more detail
7 about how the commission that's chosen to frame
8 decisions from Section 10 and Section 7
9 consultation process is all complete.

10 COMMISSIONER ROBERT LAURIE: Thank
11 you.

12 COMMISSIONER JANANNE SHARPLESS:
13 Now, Mr. Wolfinger?

14 RICK WOLFINGER: You basically got
15 right to the issue I was talking about, which is
16 the idea is that the -- my understanding is that
17 you will perform a CEQA; you'll make a
18 determination of what I need to do on the pipeline
19 or whatever, and that the extent that V.L.M.'s
20 mitigation requirements are less, I would still be
21 bound by what the CEQA process was to the extent
22 that V.L.M.'s mitigations were greater than what
23 the C.E.C. I would be bound by the V.L.M.

24 So I think that as long as the
25 C.E.C., you know, is happy with or has proper

1 mitigation, that, you know, I'm going to have to
2 meet the stringent of the two of you. And I think
3 obviously the content is like the merits of their
4 exact, but I think, as the applicant, I have to
5 meet the most stringent of the two processes.

6 COMMISSIONER JANANNE SHARPLESS: But
7 we have to notify our permit in order to
8 incorporate V.L.M. conditions if they're more
9 stringent in the commission.

10 CARYN HOUGH: Yes.

11 COMMISSIONER JANANNE SHARPLESS:
12 Okay. So that would solve that problem.

13 MARC JOSEPH: Commissioner
14 Sharpless, we're talking about more or less
15 stringent as those are the only things. I agree
16 exactly with what Caryn had to say. It goes to
17 your ability to predict what V.L.M. -- what Fish
18 and Wildlife and V.L.M. will do.

19 It's possible that they can say,
20 "Well, you know what? We need to move this
21 pipeline over to avoid, you know, a really bad
22 spot." We've already sort of gone through that
23 process once the prior 26-mile pipeline turned out
24 to be through a real sensitive area and had to
25 change location. And I mean --

1 COMMISSIONER JANANNE SHARPLESS:

2 You're talking about an efficiency thing -- what
3 would happen in the event that would occur?

4 MARC JOSEPH: That's right.

5 COMMISSIONER JANANNE SHARPLESS: And
6 given what Mr. Wolfinger says is right, what we've
7 to come do is we would come back and have to
8 modify the project. Now that increases time; it
9 increases money; and what we're trying to do here
10 is save both time and money.

11 But, you know, we're working
12 dynamics here. Committee is working with
13 dynamics, and V.L.M. has made a choice. And it
14 seems as though V.L.M.'s choice does not include
15 an M.O.U. and C.E.C.; right? Speaking of
16 acronyms.

17 CARYN HOUGH: Right.

18 COMMISSIONER JANANNE SHARPLESS:
19 Okay. Understand what the issues are. And I
20 think we've laid this problem out fairly well.
21 Any more comments? No.

22 BOB COOK: Perhaps I would like to
23 apologize for quite possibly we've caused -- in
24 the interest of simplifying things, we may have
25 caused more trouble. We are obviously

1 Johnny-Come-Latelies in this thing. Of just, I
2 think, we have internally have treated this
3 project that as if the plant was built and they're
4 asking for a pipeline de novo.

5 And it's been a little -- it's been
6 so simple for us to handle it that way. And I
7 hope you'll bear with us.

8 COMMISSIONER JANANNE SHARPLESS:
9 Thank you.

10 ALLAN THOMPSON: Thank you.

11 COMMISSIONER ROBERT LAURIE:
12 Commissioner Sharpless, the question that I still
13 have in my mind -- and I'm really not going to ask
14 for a resolution today -- but I have to admit to a
15 degree of confusion about it.

16 If we are approved in the project
17 under CEQA and the federal agency is going to
18 impose new or different conditions acknowledge the
19 under NEPA, but those conditions become -- those
20 mitigation measures become conditions of our
21 project, then that becomes of concern to me
22 because any conditions imposed upon our project, I
23 think, are subject to CEQA.

24 And so our analysis one way or
25 another, I think, are going to have to include an

1 environmental analysis of federally imposed
2 conditions.

3 COMMISSIONER JANANNE SHARPLESS:

4 Exactly. But what if you don't have -- you know,
5 what if you don't have the V.L.M. analysis of the
6 pipeline precisely? Would -- what staff is
7 indicating that we're going to do it based on
8 CEQA. Then we're going to anticipate what V.L.M.
9 is going to do, and we're going to put those
10 conditions in the permit, that we issue the permit
11 or license.

12 And then if V.L.M. comes in, I
13 assume if they are less, it's not a problem. If
14 there are more or if it's a change in direction in
15 the pipeline, we're back here. Commissioner
16 Laurie, we're back here. We're doing it all over
17 again and costing us. And it costs to the
18 applicant.

19 ALLAN THOMPSON: But this is really
20 no different than the imposition of federal and
21 state law and really any endeavor like this. Any
22 project can get -- that is licensed by the state,
23 for example, can get hit with retrofit rules.

24 COMMISSIONER JANANNE SHARPLESS: I
25 think my point is here not that we're trying to

1 change history, but what we're trying to learn
2 from history is take the bumps of the road. And
3 if we can't take bumps out of the road and we
4 recognize that those are the bumps that are going
5 to be there, we have the mechanism to deal with
6 it.

7 We are trying to do the best job we
8 possibly can on this project. And if we run into
9 a problem, we have mechanisms to deal with it.

10 ALLAN THOMPSON: Right. And those
11 mechanisms deal very well.

12 COMMISSIONER JANANNE SHARPLESS: Not
13 it just -- wouldn't you like a project that's
14 ready to go?

15 ALLAN THOMPSON: I would like a
16 project.

17 COMMISSIONER JANANNE SHARPLESS:
18 Yeah. Okay.

19 STAN VALKOSKY: I've got one point
20 of clarification.

21 Ms. Cuellar, one point of
22 clarification. You indicated on July 8 you're
23 going to file the information for the Section 10
24 and the Section 7.

25 AMY CUELLAR: Yes. Under Section 10

1 we will be providing the habitat conversation plan
2 and draft implementing agreement between our
3 desert project, fish and game, and Fish and
4 Wildlife Service.

5 STAN VALKOSKY: Okay. And --

6 AMY CUELLAR: And under Section 7
7 will be the biological assessment and the
8 environmental assessment.

9 STAN VALKOSKY: But both filings?

10 AMY CUELLAR: Yes. All the filings
11 will be on July 8. And just real quick, it might
12 be real important to know as well even though
13 V.L.M. will not officially be entering into
14 consultation with the Fish and Wildlife Service
15 for two or three weeks, they will be receiving a
16 courtesy copy on July 8 as they requested from us.
17 So they will have that information next week.

18 STAN VALKOSKY: Okay. Thank you.

19 COMMISSIONER JANANNE SHARPLESS:
20 Okay. Water supply -- we've had an ongoing
21 discussion of who's on first. And perhaps the
22 dialogue has continued, and we have clarification
23 on that issue concerning the roles of the entities
24 involved in supplying water, the time frame for
25 the process, and the potential effect on the

1 performance date of August 3.

2 That's what the -- really what the
3 committee is interested in hearing. I don't care
4 who leaps into the water first. Mr. Wolfinger?

5 RICK WOLFINGER: I tend to leap in
6 real fast and then get burned on top or whatever.
7 I don't know. Anyway basically we've been meeting
8 with both the Mojave Water Agency and Victor
9 Valley Water District. We made a presentation of
10 them earlier in June. They've also hired a
11 specialist to review our water plan.

12 COMMISSIONER JANANNE SHARPLESS: Who
13 is "they"?

14 RICK WOLFINGER: That's the Victor
15 Valley Water District to review that, and that
16 report is due at the board meeting on July the
17 7th, which we'll be attending, and determine if,
18 in fact, our plan of where the wells are going to
19 be placed are going to have an effect on their
20 future wells or their existing wells whether
21 that's tolerable or not.

22 Also during the month of July, we
23 are planning on working with the Victor Valley
24 Water District, to at least determine if they are
25 going to be the supplier of water to us -- ground

1 water, that is -- and under what conditions that's
2 going to be done. It's really predicated, though,
3 on kind of this analysis they're doing as to what
4 impact did this new well field will have on their
5 system.

6 So it kind of -- until they get that
7 information on the 7th, they then can't determine
8 what impact -- what mitigation or what issues are
9 going to be coming up. So that's where it's
10 going, and we're still looking at trying to get
11 something going by the end of July.

12 COMMISSIONER JANANNE SHARPLESS: So
13 have you come to a better understanding of what
14 the roles of the various entities are going to be?
15 Who's doing what about what?

16 RICK WOLFINGER: Well, it's still
17 really, quite frankly, until July -- until they
18 made a decision that they want to be the serving
19 entity for us or the purveyor, they haven't made
20 that determination. If they decide not to be the
21 serving -- not to be the purveyor, then we'll have
22 to either decide it if we're going to do it
23 ourselves or Rita will do it.

24 But I think that the logical person
25 to be the purveyor of water to the project is

1 Victor Valley Water District. And I think they
2 will probably come to that conclusion on the 7th
3 of July, or they may just get the report on the
4 7th of July and come that to conclusion
5 thereafter.

6 And then they'll determine what
7 conditions they want to have do that -- be our
8 supplier.

9 COMMISSIONER JANANNE SHARPLESS: So
10 with respect to August 3, applicant files written
11 documentation from water supplies for the project
12 that the applicant's water plan is acceptable and
13 identifies preliminary conditions for approval --
14 you won't know until July 7 whether you are going
15 to be able to meet the August 3 deadline?

16 RICK WOLFINGER: That's right. But
17 I don't think -- I mean July 7 they're going to
18 get a report. I'm not sure if at the board
19 meeting they're going to make a decision, saying,
20 "Yeah. We're going to do it." We're going to get
21 a report. It may be a couple days after that, the
22 staff looks at it and other things that make a
23 decision that they are going to have to go ahead.

24 And after that we'll enter into
25 discussions with them as to what kind of issues

1 they need, you know, monitoring, supply; is the
2 placement of the wells the right place? And those
3 type of things will occur right shortly
4 thereafter.

5 COMMISSIONER JANANNE SHARPLESS:
6 Staff, Commissioner Laurie, do you have a
7 question?

8 COMMISSIONER ROBERT LAURIE: All
9 right. Let me pose these questions to staff: We
10 have talked about water, and I know there is a lot
11 of information in the regard that may go before
12 the questions briefly. And I understand that
13 there's some lack of understanding about who the
14 water purveyor is, which is unusual. And I'm not
15 faulting the applicant for that.

16 In what district is this project?
17 Is it in Mojave? Is it in Victorville? In what
18 district is this project?

19 RICHARD BUELL: The best way to try
20 to explain and answer that question is the admin
21 is proposing to essentially two water suppliers of
22 the project. And they would like to obtain their
23 primary water from the Mojave Water Agency.

24 COMMISSIONER ROBERT LAURIE: Is
25 LAFCO action going to be required?

1 COMMISSIONER JANANNE SHARPLESS:
2 Local Agency Formation Commission. LAFCO? Did
3 you say LAFCO?

4 COMMISSIONER ROBERT LAURIE: Yes.
5 Is there going to be any indication into a water
6 district?

7 CARYN HOUGH: I don't know the
8 answer to that question.

9 RICK WOLFINGER: Can I just --
10 sorry.

11 COMMISSIONER ROBERT LAURIE: In our
12 CEQA analysis, we have to analyze the
13 environmental impact of this project on the region
14 water supply; is that correct?

15 CARYN HOUGH: Yes.

16 COMMISSIONER ROBERT LAURIE: What
17 information do we need in order to accomplish
18 that?

19 CARYN HOUGH: We need to know -- in
20 addition, we need to know where the water is going
21 to come from. We need to know whether they are
22 going to be using state water project water or
23 ground water and, if so, how much from each of
24 those two sources over the life of the project.
25 And then, of course, we need to know what the

1 future of state water project deliveries is like
2 to be, what the future of the local area needs for
3 state water project, state water project water is
4 likely to be.

5 And we need to know the background
6 information about how much, what the situation
7 with ground water is, and what the projections for
8 future ground water are.

9 COMMISSIONER ROBERT LAURIE: All
10 right. Do you have any difficulty with
11 recommending approval of project conditioned upon
12 LAFCO annexation?

13 CARYN HOUGH: I'm not familiar
14 enough with LAFCO annexation to know what kind of
15 environmental -- in order to answer that question.

16 RICHARD BUELL: One, in order to
17 provide, they would need to be identified other
18 than the Mojave Water Agency's pipeline.

19 And this is the need for the water
20 from the wells of the applicant proposing that it
21 would either be pursued at or permitted, may be
22 permitted by Victor Valley Water District but
23 perhaps constructed by VIA, which is the Victor
24 Valley Economic Development Authority, if I have
25 the acronym or the applicant or another party.

1 Perhaps the airport is another option.

2 NORMAN CAOUETTE: Because it's
3 subject to outage for a variety of reasons. So
4 before they can have an application that's
5 acceptable and approved by Mojave Water Agency,
6 there's this need to be 100 percent supply
7 capability from another purveyor. And that's the
8 issue that the High Desert Power Project
9 proponents are working on with their Valley Water
10 District.

11 COMMISSIONER ROBERT LAURIE: Which
12 entity? Is it Mojave, or is it Victor Valley that
13 would issue ordinarily a commitment letter?

14 NORMAN CAOUETTE: In the case of
15 Victor Valley Water District, they would have to
16 develop essentially a will serve letter for High
17 Desert Power Project and the agency. When
18 considering the application, we would have to have
19 evidence that there was some contractual agreement
20 between High Desert Power and some other entity to
21 supply that water in the event there is an outage.

22 In the case of Mojave Water Agency,
23 we do our water sales programs on an annual basis.
24 And what that means is every year, assuming we had
25 an initially approved application from High Desert

1 Power or some entity on their behalf, there's been
2 talk about the Victor Valley Economic Development
3 Authority submitting this application to supply
4 water through Mojave Water Agency through the High
5 Desert Power Project.

6 Regardless of the entity, that would
7 happen every year as part of our planning process.
8 We would have to develop our own request for water
9 deliveries and submit them to the California State
10 Department of Water Resources.

11 And based on the ability of D.W.R.,
12 to deliver to Mojave Water Agency would determine
13 how much water we will ultimately have available
14 for other entities that they have requested
15 purchase from the agency. That's a lot of
16 information, but that's how the process works for
17 us every year.

18 And, hence, the reason that he would
19 require that anyone purchasing water from Mojave
20 Water Agency have a hundred percent backup supply.

21 COMMISSIONER ROBERT LAURIE: And
22 questions to staff and given that, what do we
23 need? Do we need prior to the project approval --
24 correction: Prior to completion of environmental
25 analysis, is it your position that you need the

1 rule survey from Victor Valley?

2 RICHARD BUELL: Yes.

3 CARYN HOUGH: Could I ask a
4 question, Commissioner Sharpless.

5 COMMISSIONER JANANNE SHARPLESS:

6 Yes, please.

7 CARYN HOUGH: We had discussion
8 earlier that you may have heard about different
9 kinds of contractual arrangements with respect to
10 the admission reduction credits. What is exactly
11 is it that the Mojave Water Agency that would
12 require with the application from High Desert or
13 whoever supplies state water, project water, to
14 this project in terms of the primary water source?
15 Do you need a will serve letter? Do you need
16 something more, something less, in order to
17 consider that application?

18 NORMAN CAOQUETTE: I think the will
19 serve letter is the key. And as has been
20 discussed, they've been working with the Victor
21 Valley Water District and Mojave Water Agency to
22 develop a water plan. So and Mr. Wolfinger
23 mentioned this coming Tuesday and the fact that
24 Victor Valley Water District has hired their own
25 expert to review the plan that's already been

1 prepared.

2 And I shared his opinion that once
3 they've had a chance to consider that plan, they
4 may have some additional questions. I don't know.
5 But I think that that will allow them to move
6 forward in their negotiations with the power
7 project proponents to develop a will serve or
8 whatever kind of contract they ultimately come up
9 with.

10 CARYN HOUGH: And once they have
11 that, they can submit an application?

12 NORMAN CAOUETTE: That's correct.
13 And then we will consider that. And, of course,
14 any of the environmental work that's been done as
15 part of this process for the facilities that he
16 would need, and that would all go into the record.

17 CARYN HOUGH: Thank you.

18 RICK WOLFINGER: One clarification,
19 that they will not issue a will serve letter
20 unless somebody has posted the full amount of
21 money required to implement in that program. And
22 basically it's for developers who are developing
23 real estate. And so somebody has to put up
24 \$165,000 for the pipes to be put on the ground
25 before they issued a will serve letter.

1 This is a little different situation
2 where prior to my getting a certificate to build
3 the plant, if you actually ask for a will serve
4 letter, I may be required to post five, six, \$8
5 million to drill these wells or whatever the
6 number may be.

7 I would suggest, as Norm has
8 mentioned, that a contractual arrangement that
9 upon submitting the money that I will receive the
10 will serve letter, but I will enter into a
11 contract with Victor Valley Water District that
12 when I gave them the money, they'll give the will
13 serve letter to do it.

14 But I suggest that we don't make the
15 will serve letter as a note but we do enter into a
16 binding contractual obligation that's subject to
17 my giving the money to Victor Valley Water
18 District that they will then implement the
19 program.

20 COMMISSIONER ROBERT LAURIE: I think
21 it goes back to our discussion previously about
22 the definition of the will serve. To me a will
23 serve is a letter saying we're in agreement or
24 some memoranda saying, "We will provide you water
25 under these circumstances." Whether it's a

1 multi-party contract or unilateral staff document,
2 doesn't make any difference to me.

3 We simply got to know the terms and
4 conditions under which they will provide.

5 RICK WOLFINGER: Right. Right.

6 NORMAN CAOUETTE: I would echo the
7 sentiment that really the satisfaction of the
8 agency would require is knowing that both High
9 Desert Power Project and Victor Valley Water
10 District or whatever ultimately their purveyor
11 might be or both contractually bound to provide
12 that water supply.

13 COMMISSIONER JANANNE SHARPLESS:
14 Thank you. Thank you very much.

15 Are there any other questions?
16 Mr. Valkosky, do you have any other questions? I
17 think we pretty well covered it. Okay. No other
18 question. Okay. Well, mercifully we are down at
19 the end of the agenda, at least my agenda. And
20 this has to do with the upcoming July 31 date.
21 You've heard about different dates being offered.

22 Staff, would you like to start on
23 what the situation is regarding the P.S.A. and
24 whether or not we're going to make it July 31?

25 RICHARD BUELL: Staff is in the

1 process. We could provide a revised P.S.A. on
2 July 31 as we had committed to in our previous
3 schedule. The purpose of that document, though,
4 was to provide a more complete assessment of the
5 environmental effects of this project. And we
6 know that we are likely to be deficient in a
7 number of areas as the consequence of delay and
8 receiving information, air quality, for example.

9 And we will have a revised
10 preliminary determination prior to July 31. So we
11 wouldn't be able to incorporate that. We don't
12 have the water information that we just discussed,
13 for example. There is some information that was
14 missing in the information in the second natural
15 gas pipeline.

16 Staff would, therefore, its analysis
17 of biological resources water supply, water
18 issues. And water resources could be deficient.
19 I'm not saying that it would be, but it could be.
20 We did receive the information and for some of
21 that yesterday. So that may be sufficient. So we
22 are concerned about whether or not a revised
23 P.S.A. on July 31 would meet its intended
24 purposes.

25 And we raise that as an issue to the

1 committee.

2 COMMISSIONER JANANNE SHARPLESS:

3 Yes. I think that's become obvious. What we
4 might be able to do is, through your July 6
5 letter, where you're identifying areas of
6 deficiencies and other matters, you might include
7 in that document impacts on where the deficiencies
8 would occur in the P.S.A.

9 And the committee would have then
10 the basis on whether to -- basis to make a
11 determination on whether to stay with that date or
12 slide it.

13 COMMISSIONER ROBERT LAURIE: Okay.

14 COMMISSIONER JANANNE SHARPLESS:

15 Okay. Commissioner Laurie, do you have any
16 thoughts on that?

17 COMMISSIONER ROBERT LAURIE: No,
18 Commissioner Sharpless, I do not.

19 COMMISSIONER JANANNE SHARPLESS:

20 Anybody else on that subject?

21 ALLAN THOMPSON: Actually would it
22 be acceptable to the committee if we filed
23 something on July 6, too, because I'm not -- I'm
24 putting up my hands because I haven't really
25 checked with my client.

1 RICHARD BUELL: Right. You can see
2 me grimace when you said that.

3 ALLAN THOMPSON: But we may have
4 some very different views on the impacts of
5 certain deficiencies, for example, our view, I
6 suspect, of not having the offset certificates or
7 anything else since I think our view of the impact
8 on this process would be different from the
9 staff's. So --

10 COMMISSIONER JANANNE SHARPLESS: No.
11 That's fine. We give everybody an opportunity to
12 weigh in on that.

13 Caryn, do you have any comments?

14 MARC JOSEPH: Well, I agree with
15 your initial comment that it is sort of obvious.
16 There are tremendous changes going on in the
17 project and tremendous uncertainties.

18 And I still want us to see if
19 P.S.A., which covers most, if not all of the
20 areas, I think that's the function of the P.S.A.
21 is we can have the discussions and the workshops
22 which follow it, which hopefully narrow or
23 eliminate the need for hearings on certain issues.

24 COMMISSIONER JANANNE SHARPLESS:
25 This is the preliminary of the final P.S.A. was

1 scheduled for September 14?

2 STANLEY VALKOSKY: September 14.

3 MARC JOSEPH: Right.

4 COMMISSIONER JANANNE SHARPLESS: So
5 they bump. And if there's an impact there --

6 MARC JOSEPH: It's having a P.S.A.,
7 which covers the waterfront.

8 COMMISSIONER JANANNE SHARPLESS:
9 Yeah. But the point I'm making is there is a
10 preliminary P.S.A., and then there's the final
11 P.S.A. The final P.S.A., I think, if I could try
12 to cover as much as the waterfront as it possibly
13 can, but preliminary is really a process that
14 allows most of the issues to have been at least
15 analyzed and staff's assessment made on them to
16 help parties begin the dialogue and discussion.

17 And I think that's something that
18 the committee wants to weigh. Do we need
19 another -- do we need a second preliminary P.S.A.
20 that's inadequate, or what do we need in order to
21 give the final? So if you would like to weigh in
22 on the 6th, just say it's obvious. Well, fine.

23 MARC JOSEPH: The only point I
24 wanted to make now was at some point there should
25 be a complete Preliminary Staff Assessment and a

1 period of time before the Final Staff Assessment
2 so that we can focus on what staff's actually
3 analysis is on all the issues and perhaps narrow
4 any differences between the parties and,
5 therefore, narrow the scope of the hearings.

6 COMMISSIONER JANANNE SHARPLESS:

7 Yes?

8 ALLAN THOMPSON: If I may, I
9 actually think that we should not lose sight of
10 the fact that we are proceeding pretty well down
11 the path. The staff issued a P.S.A. that
12 contains, you know, a number. You can see by my
13 little blue, yellow, whatever, tabs here of fairly
14 large number of the sections that I think filing
15 on the P.S.A. 20 something pages, there's an awful
16 lot of comments that are fairly minor.

17 And I guess what I'm saying is we're
18 proceeding down the road. And I think that most
19 of the issues and most of the areas are in the
20 process of getting resolved, are getting out
21 there, I think, process. Most of these areas is
22 working pretty well. And while on the 6th, I may
23 disagree that the project is changing that much, I
24 don't think we have to lose sight of the fact that
25 we are progressing pretty well.

1 COMMISSIONER JANANNE SHARPLESS:

2 Well, okay. There are different points of view
3 around this table, and the committee will do its
4 absolute best to try to weigh all the different
5 points of view and make it the best process we
6 possibly can to get at the end goal. This is an
7 opportunity for the public to comment on anything
8 they've heard today.

9 And so I offer any of these sitting
10 in the audience, if you so choose, make any
11 further comments. Now is the time. No? Okay.
12 Then I will close by, again, expressing my
13 appreciation for the participation of all the
14 people here today -- the openness, the frankness.
15 We're still dealing with a number of issues we've
16 talked about in the past. The committee will
17 focus on those issues that were discussed today.

18 And we will put out a committee --
19 what do you call it? Order -- committee order in
20 the very near future. I don't think I -- okay.
21 Yeah. And I'm reminded we will review this stuff
22 that gets filed on the 6th. And so it will be
23 sometime after that. Okay. If there's no other
24 comment, we stand adjourned.

25 (Proceedings concluded at 1:38 P.M.)

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REPORTER'S CERTIFICATION

I, JENNIFER M. RODRIGUES, CSR No. 9484,
Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken
before me at the time and place therein set forth,

That all notes made at the time of the
proceeding were recorded stenographically by me
and were thereafter transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes so taken to the
best of my ability;

I further certify that I am not a relative or
employee of any attorney or of any of the parties,
nor financially interested in the action.

I declare under penalty of perjury under the
laws of the State of California that the foregoing
is true and correct.

Dated this 17th day of July, 1998.

JENNIFER M. RODRIGUES, CSR No. 9484

